
(2006) 01 RAJ CK 0017
In the Rajasthan High Court
Case No : Civil Writ Petition No. 7667 of 2005

S.P. Ratawal

APPELLANT

Vs

University of Rajasthan and Others

RESPONDENT

Date of Decision : 27-01-2006

Acts Referred:

Evidence Act, 1872 — Section 14

General Clauses Act, 1897 — Section 14, 16

Rajasthan University Act, 1946 — Section 21, 21(1), 21(2), 46

Citation : (2006) 2 RLW 1183 : (2006) 1 WLC 550

Hon'ble Judges : K.S. Rathore, J

Bench : Single Bench

Advocate : Ashok Gaur, for the Appellant; B.P. Agarwal, General, R.P. Agarwal and A.K. Sharma, for the Respondent

Final Decision : Dismissed

Judgement

K.S. Rathore, J.—Brief facts of the case are that vide letter dated 28.6.2004. Deputy Registrar (Academic), University of Rajasthan informed the petitioner that Hon"ble Chancellor while exercising power u/s 21(1)(v) of the University Act, nominated the petitioner as a member of Syndicate for a term of three years w.e.f. 23rd June, 2004.

2. The controversy arose when vide order dated 14.9.2005, in place of petitioner. Hon"ble Chancellor nominated respondent no. 3 as a syndicate member.

3. Learned Counsel for the petitioner referred Section 21 of the University of Rajasthan Act which deals with the formation of the syndicate. Relevant Section 21(1) provides that the Syndicate shall be the executive body of the University and shall consist of the following persons, namely, (i) Vice-Chancellor; (ii) Pro-Vice Chancellor, (iii) two persons nominated by the Vice- Chancellor, from amongst the Deans of Faculties; (iv) two University Professors nominated by the Vice Chancellor other than Deans and as per Section 21(I)(v), one educationist nominated by the Chancellor. Sub-section 2 of Section 21 provides that the

members of the Syndicate, other than the Vice-Chancellor and the Director. College Education shall hold office for a period of three years from the date of their nomination or election, as the case may be.

4. Learned Counsel for the petitioner after referring the aforesaid provisions submits that nomination order of respondents no. 3 passed by Chancellor is arbitrary and contrary to the provisions of Section 21 and without complying with the bare minimum requirement of the natural justice. The circumstances which compelled the Chancellor to nominate the respondent no. 3 is that the petitioner has not attended the meetings of the Syndicate. The details of the syndicate meetings are also given as under:

Date of Syndicate Meeting	Date of dispatch of notice etc.
11.7.2004	14.7.2004
28.10.2004	9.10.2004 (Notice)
20.10.2004	(Agenda)
29.11.2004	6.11.2004
23.3.2004	21.3.2005
20.5.2005	7.5.2005 (Notice)
12.5.2005	(Agenda)
5.8.2005 (Special Meeting	1.8.2005
25.8.2005	(..do..)
22.8.2005	17.9.2005
30.8.2005	

5. Thus, the petitioner only attended the first meeting held on 17.7.2004 and thereafter he did not attend the other meetings ordinary as well as special meeting as mentioned above.

6. As per the Ordinance 31 Statute 7 which required the meetings of the Syndicate to be held ordinarily at least once in two months and at other times when such meetings were convened by the Vice Chancellor. Thus as mentioned above, out of the total five ordinary meetings and two special meetings, the petitioner attended only first meeting held on 17.7.2004 although the petitioner was required to attend all the meetings as being member of the Syndicate but has not attended the same in spite of having information about the meetings and in the opinion of the respondents, the petitioner has abandoned the nomination as he failed to perform the functions as member of the Syndicate under such circumstances it was considered fit and proper in the interest of University to appoint another person an educationist as member of the Syndicate in exercise of the powers conferred u/s 21(I)(v) of the Act in place of the petitioner and Professor H.S. Sharma, respondent No. 3, was appointed as member of the syndicate.

7. It is not disputed by the petitioner that the only attended one meeting but on the contrary he submits that he is always taking keen and vital interest in the affairs of Rajasthan University. To show this he referred certain letters which are written by the then Vice Chancellor and the letter which acknowledged and endorsed the service rendered by he petitioner. In this regard it was categorically stated that with regard to the letter dated 27.9.2005 issued by Shri K.L. Sharma, the then Vice Chancellor appears to have been issued in a routine manner extending courtesy and gratitude usually expressed by a person relinquishing the office and the respondents along with their additional affidavit also placed another letter which was written to Prof. N.K. Lohiya, Member Syndicate which is

virtually the same.

8. It is not disputed that the appointing authority having ample power of termination as held by Hon^{ble} the Supreme Court in the case of Dr. Bool Chand v. Chancellor reported in 1968 SC 292.

9. Having considered the ratio decided by Hon^{ble} the Supreme Court which clearly indicates that the appointing authority is not precluded from determining the employment, the decision of the appointing authority to terminate the appointment may be based only upon the result of an enquiry held in a manner consistent with the basic concept of justice and fair play. The petitioner's contention was that prior to withdrawal of nomination a bare minimum principle of natural justice should be followed before nominating the respondent no. 3 and the power may not be exercised arbitrarily and it can only be exercised for good cause that is in the interest of the University and only when it is found after due enquiry held in manner consistent with rules of the natural justice that the holder of the office is unfit to continue his office as Vice Chancellor.

10. Here, in the instant case, admittedly, the petitioner did not attend number of meetings of the Syndicate for a period of about one year and not attending the meeting of the Syndicate indicates that the petitioner has not cared to watch the interest of the University and if he is continuously and persistently not attending the syndicate meetings despite of due notice and information about the date of meeting the power which is exercised by the Chancellor cannot be said to be arbitrary rather it is in the interest of the University as the conduct of the petitioner itself shows that he is not interested to attend the meeting of the syndicate.

11. I am also not convinced with the submission made on behalf of the petitioner that prior to termination of his nomination he should be given opportunity of being heard and the reasons should be assigned. The petitioner himself was aware of the fact that he is not persistently attending the meeting of the syndicate. The respondent informs the petitioner about the date of the meeting well within time which is evident by the Under Postal Certificate (UPC) and the date of the registry sent to the petitioner clearly indicates that information regarding meeting was issued to the petitioner and if the petitioner wanted to controvert that service was not made within time then as per Section 14 of the Evidence Act he ought to have filed envelope having the date of receipt and stamp of the post office.

12. I have carefully perused the judgments referred by the respective parties and Section 46 of the University Act and Section 14 and 16 of the General Clause Act. As discussed herein above, I am fully satisfied with the submissions advanced on behalf of the respondents and learned Advocate General that the Chancellor has rightly exercised power to nominate the respondent no. 3 as the petitioner failed to attend seven meetings ordinary and special in one year and it seems that the petitioner is not interested and willing to discharge his functions

as a syndicate member and as per the ratio decided by Hon"ble the Supreme Court in the case Dr. Bool Chand (supra) it is in the interest of the University and it was well established that the petitioner is not taking interest in the affairs of the University and by not attending the meetings he himself abandoned the nomination and in such circumstances, Hon"ble the Vice Chancellor has rightly nominated respondent no. 3 as Syndicate member.

13. In view of the aforesaid observation, the writ petition stands dismissed. The interim order granted by this Court dated 20.9.2005 is hereby quashed and set aside.