
(2012) 10 AHC CK 0247
In the Allahabad High Court
Case No : C.M.W.P. No. 53613 of 2012

Sudhir Ojha

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 10-10-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 156(3)
Penal Code, 1860 (IPC) — Section 323, 504, 506

Citation : (2013) 3 AWC 3179

Hon'ble Judges : A.P. Sahi, J

Bench : Single Bench

Advocate : H.N. Singh, I.K. Upadhyaya and Vineet Kumar Singh, for the Appellant; Vinod Kumar Sharma, Vivek Varma, R.N. Ojha and O.P. Ojha, for the Respondent

Final Decision : Dismissed

Judgement

A.P. Sahi, J.—Heard Sri H.N. Singh, learned counsel for the petitioner, who is a student of M.A. Previous Political Science of Satish Chand College, Ballia, and he has filed his nomination for contesting the elections of the post of President of the Students Union of the said College which is scheduled to be held on 14.10.2012. The nomination of the petitioner has been rejected on the ground that he is involved in a criminal case. Sri H.N. Singh contends that this rejection is not based on a correct interpretation of paras 6. 5.7 of Lyngdoh Committee report and further he relies on the proposed Ordinances of respondent No. 2 - University to contend that the same has been erroneously incorporated in the election notification programme and, therefore, the rejection of the nomination is invalid.

2. On facts, it is undisputed that a charge-sheet has been submitted against the petitioner in case Crime No. 786 of 2011 u/s 323/504/506, I.P.C.

3. Sri Singh submits that this appears to have been done on an investigation having been carried out on an order passed in an application u/s 156(3), Cr.P.C.

He, therefore, submits that in essence, there is no criminal case pending in terms of the aforesaid para 6. 5.7 of the Lyngdoh Committee report so as to disqualify the petitioner from contesting the elections. Sri Singh contends that the petitioner has neither been tried nor convicted and in the circumstances attribution of disqualification is unjustified.

4. Sri Vivek Varma for the respondent No. 2 - University relies on a judgment of this Court dated 5.10.2012, Vishal Yadav and another v. State of U.P. and others, Writ Petition No. 51542 of 2012, to urge that the matter is no longer res-integra and that in view of the admitted fact that a charge-sheet has already been submitted against the petitioner, he is disqualified and ineligible from contesting the election in terms of para 4(A)(9) of the Ordinances contained in Chapter XIII of the Ordinances framed for the Students Union elections. He submits that reliance placed on the proposed Ordinances is misplaced and in view of the decision referred to herein above, this petition is also squarely covered by the said decision and accordingly be dismissed.

5. Sri Vinod Kumar Sharma has been heard for the Caveator-Ashutosh Kumar Pandey and the learned standing counsel for the respondent No. 1. It is not necessary to issue notice to the respondent Nos. 3 and 4 in view of the order that is proposed to be passed.

6. Having heard learned counsel for the parties, the question of applying moral values was also under consideration by the Lyngdoh Committee while submitting its report. In the opinion of the Court, the Committee was well aware of the fact that such Students Union are perceived as the nursery for the rearing for future Politicians and Leaders of the nation. It is for this purpose that persons with high moral character and ethical values get themselves involved in student politics so that they are able to lead the nation in future and accordingly the Lyngdoh Committee report clearly indicates that the persons of a shady character or having a criminal background or antecedents should not be allowed to contest the elections. This philosophy is already contained in the Lyngdoh Committee report, which has been incorporated in the judgment of the Apex Court in the case of University of Kerala Vs. Council, Principals", Colleges, Kerala and Others, .

7. The paragraph relied upon by Sri H.N. Singh is a clear indicator and the same should not be interpreted so as to take out the essence of the aforesaid philosophy for preventing persons of criminal background from entering into Students politics. In the opinion of the Court, if the suggestion of Sri Singh is accepted, then the entire Society will be faced with whatever is happening today when an University or a College faces Students Union elections. Judicial notice can be taken of wide spread reports of arson and rampage in University and College campuses when such elections take place and for this, candidates with criminal background appear to be responsible.

8. In such a situation, the contention of Sri Singh is neither acceptable legally nor even morally in the larger interest of the Society. The rules, which have been

framed, indicate a laudable object, and not a nursery to generate criminals or politicians with criminal background. This will be against public policy and would also be against the interest of the Society at large. Not only this, it will be against the interest of the students and also against the interest of future generations. Students Union elections are contested for the purpose of projecting a political figure who may in future be involved in active politics of the nation and the State. Such persons cannot be expected to be of a criminal background as they have to lead Society. Allowing persons with a criminal background would defeat the same purpose and laudable object as contained in the Lyngdoh Committee report that has been accepted by the Supreme Court. In the aforesaid circumstances, this Court finds that allowing such candidates to contest main elections would be putting a premium to the on going rampage in College campuses and University grounds. Accordingly, I am of the firm opinion that such persons, who have a criminal background, should be strictly prohibited from entering this field of nursery of a students politics. The petitioner is already charge-sheeted and so long he is not discharged, a proceeding is pending against him which clearly attracts the ineligibility Clause 4(A) 9 of the Ordinances. He, therefore, has been rightly prevented from contesting elections.

9. Apart from this, it has already been held in the judgment delivered by this Court in the case of Vishal Yadav (supra) that contesting elections is only a legal right and not a fundamental right. In the aforesaid circumstances, the restrictions, which have been placed by virtue of the said Ordinances, are perfectly saved under the circumstances and they do not deserve to be tinkered with by this Court on the judicial side or else this would encourage students of criminal background to spoil the academic atmosphere of institutions that are meant to cater to higher education. In view of the reasons herein above, the writ petition deserves to be dismissed as it lacks complete merit and is hereby dismissed.