

(2004) 10 AHC CK 0163

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 43403 of 2004

Sunil Kumar Dubey

APPELLANT

Vs

Principal, K.B. Post-Graduate Degree College and Others

RESPONDENT

Date of Decision : 27-10-2004

Acts Referred:

Constitution of India, 1950 — Article 226
Uttar Pradesh State Universities Act, 1947 — Section 1

Citation : AIR 2005 All 48 : (2005) 1 AWC 377 : (2005) 1 UPLBEC 663

Hon'ble Judges : Arun Tandon, J

Bench : Single Bench

Advocate : Rahul Sripat, for the Appellant; S.K. Chaubey and Anil Tiwari, S.C., for the Respondent

Final Decision : Dismissed

Judgement

Arun Tandon, J.—Heard Sri Rahul Sripat on behalf of the petitioner and Sri S. K. Chaubey on behalf of respondent No. 2, Sri Anil Tiwari on behalf of respondent No. 3

2. Petitioner Sunil Kumar Dubey, who was admitted as regular student in two years degree Course in K. B. Post Graduate Degree College, Mussafarganj, Mirzapur, has approached this Court by means of the present writ petition for quashing the election program, as has been notified by the Principal of the K. B. Post Graduate College for the academic year 2004-2005. According to schedule so notified, which has been enclosed as Annexure-2 to the writ petition, process of the elections has commenced from 7th October, 2004 and the polling as well as declaration of result has to take place on 29th October, 2004.

3. According to petitioner, he has appeared in the M. A. previous year examination conducted by the University in the year 2004. However, the result of the said examination has yet not been declared. Because of non-declaration of the result of M. A. previous year examination, the petitioner is not being treated as regular student of the institution and has, therefore, been declared ineligible

for contesting the election of the Union.

4. On behalf of the petitioner it is contended that the delay in declaration of result is purely because of reasons best known to University and the right of the petitioner to contest the election cannot be defeated because of the delay on the part of the University Authorities. It is further submitted that if the elections are permitted to take place on 29th October, 2004, none of the students who have been appeared in M. A. previous examination as regular students will be entitled to participate in the election. It is therefore, submitted that the College authorities may be directed to wait the result of the M. A. previous examination and thereafter to hold elections of the Union.

5. I have heard counsel for the parties and have gone through the records of the writ petition.

It is a settled law that right to contest election is not a fundamental right, it is only a right conferred by the Statutes. Reference University of Delhi and Another Vs. Sh. Anand Vardhan Chandal, . If in accordance with the provisions of Statutes or the Rules or Regulations regulating the conduct of the said elections petitioner is not entitled to participate in the same, he cannot be permitted to invoke the writ jurisdiction under Article 226 of the Constitution of India for such a permission being granted for deferment of the elections, which are scheduled to take place on 29th October, 2004.

6. From the Ordinances framed by Veer Bahadur Singh Purvanchal University in respect of the student union, enclosed as Annexure-3 to the writ petition, it is apparently clear that a student, who has deposited the Union fee alone is declared to be a valid member of the student union and as a result whereof he becomes entitled to participate in the elections of the student union.

7. It is admitted by the petitioner that he has not deposited the aforesaid membership fee of the student union in the current year. However, explanation furnished is that since the M. A. previous result has not been declared, there has been no occasion for the petitioner to deposit the said student union fee as it is deposited along with the other fee in the institution at the time of admission.

8. With regards to the issue as to whether the delay in the declaration of the result of M. A. previous examination can confer any right upon the petitioner to seek deferment of the elections of the student union is concerned, suffice it to point out that no such right is conferred upon any student under the provisions of the U. P. State Universities Act or under the First Statutes or the Ordinances framed thereunder.

9. In the opinion of the Court, since the petitioner does not answer the description of a member of student union as provided for under the aforesaid rules regulating the constitution and elections of the student union, specifically Clause 2-Ka, the petitioner has no right to either contest the election or to oppose holding of the elections, which have been scheduled as per Annexure-2

to the writ petition. Even otherwise, once the election process has commenced, this Court under Article 226 of the Constitution of India cannot interfere with the same. The election process must be brought to its logical conclusion.

10. Lastly it is submitted on behalf of the petitioner that since, under the Government Order dated 1st September, 2003, 15th October, 2005 has been fixed as the last date for completion of the process of election of all the Students' Unions of the Universities and affiliated degree colleges is already over, it is not open to the respondents to hold any fresh election now. In the opinion of the Court the provisions of the aforesaid Government Order are not mandatory so as to make the breach of the aforesaid cut of date which holds election as fatal. As already stated above, petitioner having not been enrolled as member of the student union for current year, can have no grievance with regards to holding of the elections nor he can seek any deferment of the said elections.

In such circumstances, no case is made out under Article 226 of the Constitution of India. Writ petition is, accordingly, dismissed.