

(1996) 07 SC CK 0093

In the Supreme Court Of India

Case No : C.A. No. 2163 (NCM) of 1978

University of Delhi and Another

APPELLANT

Vs

Sh. Anand Vardhan Chandal

RESPONDENT

Date of Decision : 09-07-1996

Acts Referred:

Constitution of India, 1950 — Article 19(1), 21, 226(1)

Citation : (1998) 5 SCALE 23 : (2000) 10 SCC 648

Hon'ble Judges : S. Saghir Ahmad, J;N.P. Singh, J;M.M. Punchhi, J;M.K. Mukharji, J;Kuldip Singh Singh, J

Bench : Full Bench

Final Decision : Allowed

Judgement

1. A Division Bench of the Delhi High Court posed the following question for its considerations:

"Is there a fundamental right to education to be spelt out of clauses (a), (b) and (c) of Article 19(1) and Article 21 of the Constitution? Does it include participation by a student in the activities of the University Student's Union ? Does the denial of this right to petitioner by the University sustain this petition under Article 226(1)(a) of the Constitution ? These some what novel questions arise in this Writ Petition on the following facts".

2. The High Court answered the first part of the question in the affirmative and has held that the right to education is a fundamental right. This question has been finally decided by a Constitution Bench of this Court in *Virsa Singh Vs. State of Punjab and others*, . There is, therefore, no dispute that the right to education is a fundamental right to the extent it has been spelt out by the Constitution Bench in *Unnikrishnan's case*.

3. So far as the student-participation in the election and other Union activities is concerned, the Division Bench has held the same to be a part of the fundamental right to education on the following reasoning:

"Once the University admits a student, it becomes its duty to educate him or give him equal opportunity with others to educate himself. Since the participation in the Union activities is a part of the total education given by the University equal opportunity has to be given to all students to participate in the Union activities. It is necessary to ensure, therefore, that the students after being admitted will have a reasonable time to join the students Union including elections to it..... The action of the University authorities firstly in fixing the date of the commencement of the year and secondly in rejecting the petitioner's nomination paper resulted therefore, in the denial of the exercise of the fundamental right to education by the petitioner".

4. We are of the view that the High Court fell into patent error in holding that once the University admits a student, the right to contest the Students of Union elections is a part of the right to education and as such is a fundamental right. This Court in *N.P. Ponnuswami Vs. Returning Officer, Namakkal Constituency and Others*, has authoritatively held that right to participate in elections to the State Assemblies and the Parliament is not a fundamental right. It is only a statutory right. Participation in the Students- Union activities including elections cannot be placed on a higher pedestal.

5. We, therefore, allow this appeal and set aside the impugned Judgment of the High Court. No costs.