

(2006) 11 AHC CK 0131
In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition Nos. 61993 and 62105 of 2006

Vipin Misra

APPELLANT

Vs

State of U.P.through Secretary,Higher Education,U.P.,Lucknow
& Ors.

RESPONDENT

Date of Decision : 13-11-2006

Acts Referred:

Citation : (2006) 11 AHC CK 0131

Hon'ble Judges : Vineet Saran, J

Final Decision : Dismissed

Judgement

Vineet Saran, J.—These are two writ petitions challenging the election of the Students Union and the orders whereby nomination of the petitioners for contesting the Students" Union election have been rejected. On a special mention having been made by the learned Counsel for the petitioners in both the writ petitions that the elections of the Students" Union are scheduled for 14112006 i.e. tomorrow, both the writ petition have been taken up today on the ground of urgency.

2. Civil Misc. Writ Petition No. 62105 of 2006 has been filed by Manish Misra and Vipin Misra with the following prayers:

?(i) issue a writ, order or direction in the nature of certiorari to quash the impugned order dated 16102006 issued by the respondent No. 5. The election officer Kanhaiya Lal Basant Lal Post Graduate College Mirzapur (Annexure5 to the writ petition);

(ii) issue a writ, order or direction in the nature of mandamus commanding the respondents not to hold the election of the Student Union scheduled for 14112006;

(iii) issue any other writ, order or direction which this Hon"ble Court may deem fit and proper in the facts and circumstances of the case;

(iv) to award the costs of the petition to the petitioner?

3. Civil Misc. Writ Petition No. 61993 of 2006 has been filed by Vipin Misra (who is petitioner No. 2 in the writ petition No. 62105 of 2006) with the following prayers:

?(a) to issue a writ, order or direction in the nature of certiorari quashing the impugned order dated 7112006 Annexure2 passed by the respondent No. 4, Chief Election Officer/Returning Officer of Kanhaiya Lal Basant Lal Post Degree College, Mirzapur and also quashing the Rule 10 of the Government Order No. 2270/701200315(12) (1)/1994 dated 192003 and 89 2003, Annexure1.

(b) to issue a writ, order or direction in the nature of mandamus commanding the respondents to allow the petitioner to contest the election of the Students Union of K.B.D.C. College.

(c) to issue any other suitable writ, order or direction which this Hon''ble Court may deem just and proper in the interest of justice.

(d) to award costs to the petitioner.?

4. I have heard Sri Rajeev Misra, learned Counsel for the petitioners in writ petition No. 62105 of 2006 and Sri Vishnu Sahai, learned Counsel for the petitioner in writ petition No. 61993 of 2006. Sri A.K. Tripathi learned Counsel holding brief of Sri Anil Tiwari, is present on behalf of the respondent University.

5. The submission of Sri Rajeev Misra, learned Counsel is that as per the order dated 992000 the elections of Students Union of a college for the academic session are to be held before 30th September and as such the elections of the college scheduled to be held on 14112006 would be against the terms of the said order. Sri Vishnu Sahai, learned Counsel appearing for Vipin Misra, (who is the sole petitioner in the first writ petition and Petitioner No. 2 in the second writ petition) has challenged the order whereby the nomination of Vipin Misra has been rejected on the ground of his involvement in criminal cases. He has also challenged the clause in the byelaws/rules whereby a student involved or convicted in criminal case would not be permitted to contest the Student''s Union election.

6. Having heard learned Counsel for the parties and considering the facts and circumstances of this case, in my view, both these writ petitions deserve to be dismissed. Admittedly the nomination papers of Manish Misra and Vipin Misra both have already been rejected on the ground of their involvement in criminal cases, meaning thereby that they had intended to participate in the elections. On their nomination having been rejected, they cannot be permitted to turn around and challenge the entire elections on the ground that the same is being held after 30th September, which is against the byelaws. If the petitioners were aggrieved by such clause, they could have challenged the notification itself prior to filing their nomination papers and participating in the election process. Further, the clause with regard to the bar of a student contesting the election on

account of his involvement or conviction in a criminal case has been added on the recommendations of the Supreme Court, which was based on the report submitted by the exChief Election Commissioner, Mr. Lyngdoh. In my view, the said clause is perfectly justified. It prohibits a person involved or convicted in a criminal case from contesting an election of the Students' Union. Admittedly, in the case of both the petitioners, the chargesheets have been submitted and criminal cases are pending against them. It is not the case that a mere first information report has been lodged against the petitioners, in which case their involvement could have been in doubt. Once the Court has framed charges, and the criminal case are appending, their prima facie involvement in the criminal cases cannot be denied. As such the clause under challenge is fully justified.

7. Even otherwise the petitioner Vipin Misra has filed two writ petitions for virtually the same cause of action and on this ground also his writ petition deserves to be dismissed.

8. For the aforesaid reasons, both the writ petitions stand dismissed. No order as to cost.

9. The office is directed to place a Photostat copy of this order on the records of Civil Misc. Writ Petition No. 62105 of 2006.