

(2012) 09 AHC CK 0058
In the Allahabad High Court
Case No : C.M.W.P. No. 46244 of 2012

Vivekanand Pathak

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 17-09-2012

Acts Referred:

Citation : (2013) 3 AWC 2282

Hon'ble Judges : Amreshwar Pratap Sahi, J

Bench : Single Bench

Advocate : Jitendra Kumar and Abhishek Rai, for the Appellant; Ram Gopal Tripathi, A.K. Goyal and Kasif Zaidi, A.S.G.I., for the Respondent

Final Decision : Dismissed

Judgement

Amreshwar Pratap Sahi, J.—Heard learned counsel for the petitioner, Sri Abhishek Rai and Sri A.K. Goyal for the respondent Nos. 2, 3 and 4, and Sri Kasif Zaidi for the respondent No. 1. The respondent University is a Central University. Regulations for the conduct of Students' Union Election known as the Code of Election, 2012 have been framed. The petitioner has come up assailing the action of the University as also challenging Paragraph 1 of the eligibility criteria of the said Code which prescribes the cut off date for computing the age of a contestant. The said provision clearly indicates that the age of a candidate has to be computed on the date of filing of the nomination. Admittedly the last date for nominations according to the University is 24th September, 2012. The petitioner has also admittedly become 25 years of age on 11th July, 2012 and is a postgraduate student. Accordingly, the petitioner becomes disqualified for contesting the elections as on the date of nomination he would be above 25 years of age.

2. To advance his submissions learned counsel for the petitioner takes the help of Guidelines No. 6.4.2 that has been adopted by the Apex Court in the case of The University of Kerala Vs. The Council of Principals of College in Kerala and Others, to contend that elections have to be held within 6 to 8 weeks of the date of

commencement of the Academic Session.

3. Learned counsel submits that the Academic Session of the petitioner had already commenced in July, 2011 and had the elections been held within 6 to 8 weeks of such session, the petitioner would have been entitled to contest the elections. It is the delay in the holding of the elections that has resulted in the disqualification of the petitioner and, therefore, by way of a necessary fiction the petitioner's claim to contest the election even after crossing the age of 25 years should be construed to be within the eligibility zone as defined therein.

4. Learned counsel, therefore, submits that the provision of specifying the cut off date is contrary to the aforesaid view expressed by the Apex Court in relation to the holding of elections within the same Academic Session.

5. Learned counsel for the University contends that the same judgment also makes a provision for fixing the upper age limit and prescribing the rules for computing the age of candidates in paragraph 6.5 of the judgment. He further contends that the University after due deliberations has made a provision that the last date of nomination should be the cut off date. He, therefore, contends that there being no contradiction, the University is entitled to fix a date as such the contention raised on behalf of the petitioner cannot be accepted.

6. Sri Goyal further contends that merely because the University had not got the Students' Union Elections held for the Session 2011-12, the same cannot be a ground to strike down the provision of the cut off date, and if the petitioner was claiming any such right, he could have claimed it during the same session not after the expiry of the session.

7. Having heard learned counsel for the parties and having considered the aforesaid provisions, the facts are admitted on record including the fact that the elections were not held in the previous session. In my opinion, if the petitioner wanted to assert his rights to contest an election, it was open to him to have approached the appropriate forum for the holding of the elections. Merely because the elections have not been held in the same Academic Session, does not in any way provide a ground to declare the cut off date as ultra vires. inasmuch as, the said cut off date was very much relevant even for the previous session.

8. Apart from this, the Court has to apply the golden rule of construction and has to construe all the provisions read together. They cannot be read in isolation to each other. The elections have to be held through a process and therefore there has to be a cut off date for the purpose of computing the age of a candidate. It cannot be an ongoing or a never ending process. Accordingly, the cut off date as provided, that is the last date of nomination, does not in any way appear to be ultra vires either the provisions of the regulations, or the Judgment of the Apex Court, as relied upon by the learned counsel for the petitioner. In the aforesaid circumstances the argument advanced that merely because the elections were not held in the previous year gives a right to the petitioner by way of a fiction to

contest elections even after the expiry of the term, cannot be accepted. The argument is too far fetched.

The writ petition lacks merit and is hereby dismissed.