
(2011) 02 SC CK 0048

In the Supreme Court Of India

Case No : Civil Appeal No. 1862 of 2011 (Arising out of SLP (C) No. 32148 of 2010)

Zafruddin Khan

APPELLANT

Vs

Aligarh Muslim University and Others

RESPONDENT

Date of Decision : 14-02-2011

Acts Referred:

Aligarh Muslim University Act, 1920 — Section 12(2), 5(9A)

Citation : (2011) 2 CHN 178 Supp : (2011) 2 JT 152 : (2011) 2 SCALE 635 : (2011) 1 UPLBEC 633

Hon'ble Judges : R. V. Raveendran, J;A. K. Patnaik, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. Leave granted. Heard.

2. The Appellant filed a Public Interest Litigation in the Allahabad High Court for a declaration that the decision of the Aligarh Muslim University ('AMU' for short), the first Respondent herein, to establish special campus centres across India was illegal and for a direction to the said University not to establish a campus at Chelemala at Perinthalmanna Mallapuram Kerala. The Appellant relied upon Section 5(9A) of the Aligarh Muslim University Act, 1920 in support of his contentions. The said petition was resisted by the Respondents inter alia on the ground that Appellant had no locus standi to file such a petition and justifying the action by relying upon Section 12(2) of the said Act.

3. The said writ petition has been dismissed by the High Court by the impugned order dated 7.10.2010 on the ground that the Appellant does not have any locus standi to file such public interest litigation. The High Court was of the view that only a Member of the University Senate or University Academic Council or University Court could file a writ petition for the reliefs sought by the Appellant. The High Court was also of the view that the fundamental rights of the Appellant were not affected by the proposed action of the University and therefore, the writ

petition was not maintainable. The High Court consequently dismissed the writ petition with an observation that if any aggrieved person having a locus files a proper petition, the dismissal of the Appellant's petition will not come in the way of such petition being entertained. The said order is challenged in this appeal by special leave.

4. The Appellant has pointed out that apart from being a Member of the Bar, he is a former President of the Student Union of the AMU, former elected Member of AMU Court, Life Member of AMU Old Boys Association and Donor Life Member of the AMU. He had produced documents in support of the said averments. The said averments are not shown to be false. The Appellant claims that his only interest in filing the writ petition was to ensure that AMU continues to be an Institution of academic excellence and that no action of the University should dilute its academic excellence. On the other hand, the Respondents contend that the writ petition was filed with the oblique motive of maligning the Vice Chancellor of the University. It is not necessary to examine that aspect now.

5. We are of the view that having regard to the fact that the Appellant was a former student and elected Member of AMU Court and is also a Donor Life Member, he has sufficient interest to file the writ petition in public interest. The High Court ought not to have dismissed the public interest litigation only on the ground of locus standi of Appellant to file the writ petition.

6. We, therefore, allow this appeal, set aside the order of the High Court and restore the public interest litigation to the file of the High Court without expressing any opinion on the merits of the case. The Respondents will be entitled to contest the writ petition by urging all contentions open to them in law, including the contention relating to the alleged malafides of the Appellant.