

Management Committee Atarra Post Graduate College

Vs

Vice Chancellor, Bundelkhand University, Jhansi and Another

Special Leave Petition No. 3090 of 1989

(S. Ranganathan, J. S. Verma, Smt. M. S. Fathima Beevi JJ)

31.07.1990

ORDER

1. This is a special leave petition preferred by the Committee of Management of the Atarra Post Graduate College from an order of the High Court of Allahabad dated September 30, 1988 in Civil Miscellaneous Writ Petition No. 12682 of 1987.
2. The facts briefly were that the Committee of Management had terminated the probation of one Dr. Gaur who had joined as Principal on November 1, 1984 and whose probation has been extended till October 31, 1986. This was stated to be in pursuance of resolution passed by the Committee on October 11, 1986 and, again October 20, 1986 and after notice to Dr Gaur. This order of the Committee of Management was approved by the Vice Chancellor of the University on December 7, 1986. A writ petition was filed against this order of the Vice Chancellor by Dr. Gaur but this was dismissed by the High Court on the short ground that he had an alternative remedy before the Chancellor under Section 68 of the U. P. State University Act.
3. Later on, however, on a representation made by the Teachers' Association and also by Dr. Gaur, the Vice Chancellor purported to review his earlier order and passed, an order dated June 29, 1987 by which he rescinded the approval granted to the termination of the services of Dr. Gaur on December 7, 1986.
4. The Committee of Management filed a writ petition before the High Court which was disposed of by the order dated September 30, 1988 referred to above. The High Court was of the view that the Vice Chancellor did not have the power to review, but however, held that, in the circumstances, it was open to him to consider whether there had been any misrepresentation in the statement made before him on the basis of which he had taken the decision dated December 7, 1986. It is against this order of the High Court that this special leave petition has been preferred by the Committee of Management.
5. During the pendency of this SLP, this Court passed an interim order by which they permitted the Vice Chancellor to proceed with the enquiry directed by the order of the High Court dated September 30, 1988 subject to the condition that any decision taken by the Vice Chancellor should not be enforced and implemented until further orders of this Court. This Court also directed that the Vice Chancellor should submit his report to this Court as soon as enquiry is over. The Vice Chancellor has accordingly gone ahead with the enquiry and he has passed an order dated February 9, 1990 holding that the approval dated December 7, 1986 given by the Vice Chancellor was based on an untrue statement of facts given by the Management, that no meeting of October 11, 1986 had been held as stated by it and that the said approval dated December 7, 1986 terminating the service

of Dr. Gaur should be quashed and set aside.

6. Mr. Poti, learned counsel appearing on behalf of the Committee of Management, submits that the Vice Chancellor has not properly appreciated the circumstances of the case. He also submitted that the conclusion of the Vice Chancellor are totally perverse and ignores the mass of evidence of the Committee of Management as well as several witnesses before the Vice Chancellor regarding the conduct of both the meetings. In our opinion it is not for this Court to appraise the factual circumstances and come to a conclusion whether the order of the Vice Chancellor is correct or not, particularly when it is open to the aggrieved party, under Section 68 of the U. P. State University Act, to have a reference made to the Chancellor of the University who has ample powers to decide whether any decision taken by any authority or officer is in conformity with the statutes and ordinances of the University. In view of this provision it is open to the Committee of Management to make a reference to the Chancellor to decide the issue regarding the validity of the termination of the services of Dr. Gaur and of the order of the Vice Chancellor. We, therefore, express no opinion on the correctness or otherwise of the order-cum-report dated February 9, 1990 of the Vice Chancellor. We leave it open to the Committee of Management to take a reference to the Chancellor regarding the correctness of this order.

7. Normally a reference under Section 68 of the U. P. State University Act is to be made within three months of the order by aggrieved person. But, in this case, though the Vice Chancellor has passed what purported to be an "order", there was some misapprehension as to whether it was an order or only a report pursuant to the interim order of this Court. In view of this the Committee of Management has not so far filed any reference to the Chancellor. We are of the opinion that, in the circumstances, the delay in seeking a reference should be condoned and that the Chancellor may entertain a reference from the Committee of Management if such reference from the Committee of Management is preferred within a period of 15 days from today. Having regard to the fact that this matter has been pending for a very long time, we hope that the Chancellor will be able to dispose of the reference within two months from today.

8. We also direct that the status quo as on date regarding the respondent may be continued till the Chancellor finally disposes of the reference before him. We may make it clear that if no reference is asked for within 15 days from today, this special leave petition will be treated as dismissed. With these observations the SLP is disposed of.

</html