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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 11223/2009

Date of decision: 27th August, 2009

ABHIMANYU SINGH Petitioner
Through Mr. Navin Kumar Jaggi, Mr. R.C. Nangia
& Mr. M.K. Singh, Advocates.

versus

DELHI UNIVERSITY & ORS. Respondents
Through Mr. Mohinder Rupal, Advocate.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not ?
3. Whether the judgment should be reported in the Digest ?

ORDER

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1. The petitioner had filed nomination to contest election for the post of President of the Delhi University Student Union. The said nomination has been rejected in view of clause 6.5.6 of the Lyngdoh Committee recommendations, which have been made applicable in terms of interim directions passed by the Supreme Court in ***University of Kerala versus Council, Principals, Colleges Kerala and others***, (2006) 8 SCC 304. After the said judgment, the Lyngdoh Committee recommendations have been accepted by University of Delhi. Accordingly, code of conduct for

candidates contesting DUSU elections in the year 2009-10 has been issued and enforced. The relevant portion of the Lyngdoh Committee recommendations and the Supreme Court judgment under which the petitioner has been barred and his nomination has been rejected, read as under:-

"6.5.6 The candidate shall have one opportunity to contest for the post of office-bearer, and two opportunities to contest for the post of an executive member."

2. It is an accepted case of the petitioner that the petitioner had filed nomination and contested for the post of Vice-President of Delhi University Student Union in the year 2006. Learned counsel for the petitioner, however, submits that Clause 6.5.6 is not applicable as the elections for the year 2006 were before the judgment of the Supreme Court dated 22nd September, 2006 in the case of ***University of Kerala*** (supra). He states that the code of conduct has not been given retrospective operation and the Supreme Court in the said judgment has held as under:-

"7. It is made clear that the recommendations made, which we have accepted to be adopted as an interim measure, shall be followed in all college/university elections, to be held hereinafter, until further orders."

3. The aforesaid contention does not have merit. The recommendations or the order passed by the Supreme Court is not being given retrospective effect and is not being applied to elections held before

the date of the judgment, i.e., 22nd September, 2006. Elections in which the petitioner's nomination has been rejected are being conducted in the year 2009. In terms of Clause 6.5.6, the petitioner's nomination has been rejected because he had earlier participated and contested the elections for the post of Vice-President in the year 2006. This does not mean that the respondents are giving retrospective effect to the said recommendations/order. The respondents are implementing the Supreme Court directions as of today. The contentions fail to notice difference between retroactive and retrospective operation.

4. Learned counsel for the respondent-University of Delhi, who appears on advance notice states that the petitioner herein Mr. Abhimanyu Singh had earlier filed W.P. (C) No. 6337/2007 challenging the recommendations and the code of conduct introduced by University of Delhi pursuant to directions of the Supreme Court in the case of ***University of Kerala*** (supra). The said writ petition was disposed of by this Court vide order dated 27th August, 2007 after issuing certain directions. One of the directions given was that the elections should be strictly in accordance with the directions given by the Supreme Court in the University of Kerala's case (supra) and in case there is any discrepancy between model code of conduct and the directions stipulated in the judgment, the judgment will prevail. The said judgment was upheld by a Division Bench on an appeal filed by one Mr. A.A. Vikas Dahia.

5. The factum that the petitioner had earlier challenged the recommendations and had filed W.P. (C) No. 6337/2007, is not mentioned in the writ petition. However, learned counsel on instructions from the petitioner admits that the said writ petition was in fact filed and apologizes for the said lapse.

6. Learned counsel for the petitioner submits that another candidate Mr. A. Amandeep Mathur is also disqualified from contesting the elections for the same reason but his nomination has not been rejected. Learned counsel for the respondent states that the said averment is incorrect and has produced before this Court letter dated 26th August, 2009 stating that Mr. A. Amandeep Mathur's nomination was found to be invalid because he had already contested DUSU elections in the year 2006. Photocopy of the said letter dated 26th August, 2009 is being placed on record.

7. In view of the aforesaid, I do not find any merit in the present writ petition and the same is dismissed.

SANJIV KHANNA, J.

**AUGUST 27, 2009
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