

W.P.(C) 1093/2010

S.N.SINGH

..... Petitioner

Through: Mr. Mahabir Singh, Sr. Advocate with
Mr. V. Sudeer and Mr. Rakesh Dahiya,
Advocates

versus

UNIVERSITY OF DELHI & ORS.

..... Respondents

Through: Mr. V.P. Singh, Sr. Advocate with
Mr. J.S. Rupal and Mr. Jitender Khanna,
Advocates

CORAM: JUSTICE S. MURALIDHAR

1. Whether reporters of local paper may be allowed
to see the order? No
2. To be referred to the reporter or not? Yes
3. Whether the order should be referred in the digest? Yes

ORDER
09.03.2010

1. The challenge in this writ petition by the Petitioner, who is the Head and Dean, Faculty of Law, Delhi University ('University') is to a Resolution dated 23rd December 2009 passed by the Executive Council of the University authorising its Vice-Chancellor to constitute a three-member Committee to enquire into the issues arising out of a letter dated 20th April 2009 sent by the University to the Petitioner. The petition also challenges a notification dated 27th January 2010 issued by the University constituting a Committee of three learned Professors of the University to look into the issues raised in the aforementioned letter dated 20th April 2009 sent to the Petitioner.

2. This is not the first time that the Petitioner is before this Court. A two member Committee had been constituted by the Vice Chancellor in relation to a complaint made against the Petitioner. That Committee gave a report on 7th April 2009, following which the aforementioned letter dated 20th April 2009 was sent to the Petitioner asking him to offer his comments within seven days. It was stated in the said letter that the Executive Council of the University at its meeting held on 20th April 2009 had decided to divest the Petitioner of his responsibilities as Head & Dean of the Department and Faculty of Law till the issues were resolved. On 25th April 2009, the Petitioner sent an “interim reply” to the letter dated 20th April 2009 stating that he will file a detailed reply after the documents as demanded by him were furnished.

3. The Petitioner filed Writ Petition (Civil) No. 8736 of 2009 in this Court challenging the said letter dated 20th April 2009. By a judgment dated 5th May 2009, while staying the operation of the portion of the said letter dated 20th April 2009, a learned Single Judge of this Court permitted the Petitioner to continue to act as Head of the Department of Law and Dean, Faculty of Law “till the time an informed and conscious decision is taken objectively by the Executive Council in this regard”. The said decision was carried in appeal by the University to the Division Bench of this Court. LPA No.215 of 2009 was disposed of by the Division Bench by an order dated 18th May 2009 which reads as under:

“We have heard learned counsel appearing for the appellant Delhi University and the Dean, Mr. S.N. Singh.

Mr. Aggarwal, learned counsel appearing for the respondent states that respondent will cooperate with inquiry and he also assures the Court that the respondent will not issue any letter contrary to the existing rules and shall avoid all administrative controversies.

Mr. Nigam, learned senior counsel appearing for the appellant states that the University will furnish the documents asked for by the respondent in its letter dated 8th May, 2009 as well as 24th April, 2009, if not already supplied. He further submits that the impugned order of divesting the administrative power shall remain suspended till the decision in the inquiry.

With the aforesaid statements and assurances given by both sides, nothing survives in the present appeal as well as in the Writ Petition (Civil) No. 8736 of 2009 and the same stand disposed of accordingly. The pending application also stands disposed of.”

4. What happened thereafter is in dispute between the parties. According to the University by a letter dated 1st June 2009 it furnished to the Petitioner the documents that he had asked for in his letters dated 24th April 2009 and 8th May 2009. For some reason, the Petitioner has not enclosed the said letter with the present petition. He also has not indicated which of the documents were in fact received by him along with the said letter. What he has enclosed is a letter dated 6th June 2009 written by him to the University stating that he had not received all the documents he had asked for and listing out the documents/information he was yet to receive from

the University.

5. On its part, the University kept waiting for his reply and thereafter prepared an Agenda for consideration by the Executive Council where after setting out the above facts it was mentioned as under :

“Meanwhile, Prof. S.N. Singh was supplied with documents in support of the charges/allegations made against him vide letter dated 1.5.2009 and 1.6.2009. Prof. S.N. Singh also sought some more records from the University through his letter dated 6.6.2009 (Annexure-D/Colly).

Despite an undertaking given before the Division Bench of Hon’ble High Court of Delhi on 18.5.2009 in LPA No. 215 of 2009, it is noticed that Prof. S.N.Singh has continued to create administrative controversies through his unilateral decisions and openly challenging the administrative instructions and orders passed by his superiors/University Officers in day to day functioning of the Faculty of Law in admissions and other allied activities. He is also exceeding his authority as Head and Dean, Faculty of law. This has created administrative breakdown adversely affecting the functioning of the University of Delhi, particularly the Faculty of Law.

In view of the above, the entire matter is placed before the members of the Executive Council for appropriate action.”

6. The Executive Council met on 23rd December 2009 and resolved as under:

“The Council considered the item relating to Professor S.N. Singh, Dean, Faculty of Law and resolved that a letter, in continuation of letter dated 20th April, 2009, be written to Professor S.N. Singh thereby requesting him to submit the reply within two weeks. Meanwhile, the Vice-Chancellor be authorised to constitute a three member Committee to look into the matter.”

7. On 27th January 2010 the aforementioned notification constituting the three-member Committee was issued by the University. The notification dated 27th January 2010 reads as under:-

“NOTIFICATION

The Vice-Chancellor as authorised by the Executive Council vide Resolution No.220 dated 23.12.2009, has constituted a Committee consisting of the following to look into the issues raised in the letter No.SPA/R/2009/2864 dated 20th April, 2009 sent to Prof. S.N.Singh, Faculty of Law:-

1. Prof. Feroz Ahmad, Department of Physics
2. Prof. Ashok Vohra, Department of Philosophy
3. Prof. J.P. Khurana, Department of Plant Molecular Biology

The Deputy Registrar (Legal) will assist the Committee in its deliberations.

Registrar”

8. On the same day, a letter was sent to the Petitioner asking him to submit his reply to the letter dated 20th April 2009 within two weeks. The letter dated 27th January 2010 written by the Registrar to the Petitioner reads as under:-

“Please refer to this office letter no.SPA/R/2009/2864 dated 20th April, 2009 and subsequent letters dated 01.05.2009 and 01.06.2009 sending therewith copies of documents as desired by you vide letters dated 24.04.2009 and 08.05.2009. Instead of submitting your reply to the letter dated 20.04.2009, you have again sent a letter dated 06.06.2009 asking for more documents whereas the pertinent documents were already furnished to you on 01.05.2009 ad 01.06.2009. Since you had failed to respond to the letter dated 20.4.2009 within the stipulated period, the Executive Council vide Resolution No.220 dated 23.12.2009 considered the matter and resolved that you should submit reply to the letter dated 20.4.2009 within two weeks from the date of issue of this letter.

You are, therefore, requested to submit your reply to the letter No.SPA/R/2009/2864 dated 20th April, 2009 within two weeks time from the date of issue this letter, failing which the matter will be proceeded further.”

9. After receipt of the aforementioned letter, the Petitioner has on 17th February 2010 filed the present petition. One day later i.e. on 18th February 2010 the Petitioner filed Contempt Case (C).117 of 2010 in this Court. The grievance in the contempt petition was that the University had not complied with the order dated 18th May 2009 passed by the Division Bench in LPA No.215 of 2009. The said contempt petition was dismissed by the learned Single Judge of this Court on 22nd February 2010 by the following order:

CM No.3423/2010(Exemption)

Exemption allowed, subject to all just exceptions.

Application stands disposed of.

CONT.CAS(C) 117/2010 and CM No.3422/2010

This contempt petition has been filed alleging violation of the order dated 18th May, 2009 passed by this Court in LPA No. 215/2009. The operative part of the order reads as under:-

Mr. Nigam, learned senior counsel appearing for the appellant states that the University will furnish the documents asked for by the respondent in its letter dated 8th May, 2009 as well as 24th April, 2009, if not already supplied. He further submits that the impugned order of divesting the administrative power shall remain suspended till the decision in the inquiry.

With the aforesaid statements and assurances given by both sides, nothing survives in the present appeal as well as in the Writ Petition (Civil) No. 8736 of 2009 and the same stand disposed of accordingly. The pending application also stands disposed of.

It is contended by the petitioner that despite assurance given by the respondents counsel, the petitioner had not been supplied all the documents. He was supplied some of documents and some more documents were yet to be supplied and an inquiry committee has been set up to initiate inquiry against the petitioner. Letter dated 6th June, 2009 written by the petitioner to the University shows that the petitioner had stated that some of the documents were supplied to him but some documents are yet to be supplied to him. He also annexed a statement of documents along with this petition which are yet to be supplied to him.

Learned counsel for the respondent, who has appeared on advance notice, submits that the petitioner was deliberately delaying holding of the inquiry and all necessary documents, as were sought by the petitioner and which were relevant for the purpose of inquiry, have been supplied to the petitioner. Now the petitioner is trying to delay the inquiry by making one or the other application.

Learned counsel for the respondent drew my attention to the Annexure P- 6. He states that the decisions taken in the meeting of the Deans of Faculties held on 14th August, 2008 was one of which the petitioner was a part being himself the Dean of the Law Faculty. At item no.2, the petitioner has sought minutes of the meeting of the Board of Research Studies in Law held on 20th February, 2009. This meeting was chaired by the petitioner himself and the minutes were signed by him as Chairman and were in his custody. Similarly, the third item regarding action taken by the Registrar of the respondent University on the petitioners letter dated 29th October, 2008 with regard to LLB./LL.M./M.C.L. admissions for the year 2009-10 and date of receipt of bulletin of Information for the year 2009-10. The fourth is about initiative taken by the respondent University in getting possession of land from Delhi Development Authority and sanction of funds by UGC and fifth is regarding name of any candidate in the entire history of the respondent University who was denied Ph.D. for failure in viva voce examination, etc. I consider, after perusal of the list of documents and other documents

listed by the petitioner that the petitioner can very well represent before the inquiry committee and the inquiry committee can take appropriate decision whether these documents are relevant and necessary for the inquiry or not and whether these should be supplied to him or not. There is no issue of contempt in this case.

The petition is, therefore, dismissed.”

10. It is urged by Mr. Mahabir Singh, learned Senior counsel for the Petitioner that the constitution of the Committee by the notification dated 27th January 2010 without waiting for a reply from the Petitioner to the letter dated 20th April 2009 was illegal. According to him it only demonstrated the pre-judging of the entire issue by the University. Relying on the observations made in the para 21 of the judgment of the Supreme Court in *State of Punjab vs. V.K.Khanna And Ors. (2001) 2 SCC 330* he submits that the impugned notification constituting the Committee without awaiting his reply should be set aside on the grounds of bias and malice in law. He submits that after all the documents are furnished to the Petitioner, and he files a reply to the show cause notice dated 20th April 2009, the said reply should be placed before the Vice Chancellor who will then, if considered necessary, place it before the Executive Council for a decision.

11. This Court is unable to accept the above submission. It is plain to this Court that the Petitioner has been given sufficient opportunities to submit a reply to the letter dated 20th April 2009. It is apparent from the order dated

18th May 2009 of the Division Bench that this Court was given to understand that the Petitioner would fully cooperate with the inquiry. Therefore, it was plain to all parties even on that date that there was going to be an inquiry. The only question that arose was of the Petitioner being supplied all the documents that he had sought. Even if it were to be assumed that the Petitioner was not furnished all the documents he had sought, he ought to have, after receiving the letter dated 1st June 2009 from University, furnished a reply to the letter dated 20th April 2009 reserving the right to file further reply as and when the entire documents sought by him were supplied. By doing nothing thereafter and simply waiting for the University to make the first move, the Petitioner cannot expect the University to wait indefinitely and not take the next logical step of constituting a Committee to enquire into the issues raised in the letter dated 20th April 2009.

12. The reliance on the judgment in *State of Punjab v. V.K.Khanna*, is in the considered view of this Court, misplaced. The facts of the said case were quite different as is evident from para 21 of the judgment which reads as under:

“21. Soon after the issuance of the charge-sheet however, the press reported a statement of the Chief Minister on 27-4-1997 that a Judge of the High Court would look into the charges against Shri V.K. Khanna – this statement has been ascribed to be mala fide by Mr. Subramaniam, by reason of the fact that even prior to the expiry of the period pertaining to the submission of reply to the charge-sheet, this announcement was effected that a Judge of the High Court would look into the charges

against Respondent 1 – Mr. Subramaniam contended that the statement depicts malice and vendetta and the frame of mind so as to humiliate the former Chief Secretary. The time has not expired for assessment of the situation as to whether there is any misconduct involved – if any credence is to be attached to the press report, we are afraid Mr. Subramaniam’s comment might find some justification.”

13. In the present case, the Petitioner’s time for submitting a reply to the letter dated 20th April 2009 had long since expired. If there was any extension of the time, it was perhaps on account of the order dated 18th May 2009 passed by the Division Bench of this Court. After receiving the University’s letter dated 1st June 2009 along with the documents, it was not proper on the part of the Petitioner to keep waiting indefinitely to submit a reply to the said letter dated 20th April 2009. In the circumstances if the University went ahead with constituting a Committee pursuant to the Executive Council’s vide Resolution dated 23rd December 2009, it cannot be faulted. Such action cannot be termed arbitrary, unreasonable or illegal. The contention of the Petitioner in this regard is hereby rejected.

14. The Vice Chancellor was authorised by the Executive Council to constitute a three member Committee and that is how the notification dated 27th January 2010 has been issued. The mere constitution of a Committee to enquire the issues arising out of the letter dated 20th April 2009 can hardly be characterised as a pre-judging of the issues. It does not, as alleged by the Petitioner, indicate any bias or any violation of the principles of natural justice. In fact the letter dated 27th January 2010

addressed to the Petitioner by the Registrar shows that he was being given two more weeks to file a reply. That reply will be placed before the Committee which is inquiring into the issues. Obviously, the Petitioner's reply will be considered by the Committee.

15. Even on the question of supply of documents to the Petitioner, the order dated 22nd February 2010 passed by this Court dismissing the Contempt Case (Civil) 117 of 2010 provides the complete answer. Therefore, there is no justification for Petitioner not having filed his detailed reply to the letter dated 20th April 2009 till date.

16. Nevertheless, given the number of orders passed in this case from time to time, this Court considers it to be appropriate in the interests of justice to give one last chance to the Petitioner to file his reply to the letter dated 20th April 2009 on or before 22nd March 2010. It is made clear that if the Petitioner does not file his reply by that date Committee will proceed on footing that the Petitioner has no reply to the offer to the letter dated 20th April 2009. Thereafter the Committee will proceed in accordance with law.

17. With the above observations, the writ petition is dismissed.

S. MURALIDHAR, J.

MARCH 09, 2010
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