

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1503 of 2015

D. L. S. P. G. College, Bilaspur District Bilaspur, Through The Principal, Dr. Ajay Tiwari, S/o Dr. R.K. Tiwari, Aged About 43 Years, R/o Ashok Nagar, Sarkanda, P.S. Sarkanda, Tahsil & District Bilaspur Chhattisgarh

---- Petitioner

Versus

1. The State Of Chhattisgarh Through The Secreary, Higher Education Department, Mahanadi Bhawan, Mantralay, New Rajdhani, P.S. Rakhi, Tahsil & District Raipur Chhattisgarh
2. Bilaspur University, Through The Vice Chancellor, Bilaspur University, Old High Court Building, Bilaspur Tahsil & District Bilaspur Chhattisgarh

---- Respondents

Shri Satish Chandra Verma, counsel for the petitioner/s.

Shri S.P.Kale, Dy.A.G. for the State.

Shri Mateen Siddiqui, counsel for respondent No.2 on advance copy.

Order On Board

26/08/2015

This petition, under Article 226 of the Constitution of India, is preferred against decision of the Executive Council of the University rejecting petitioner's application to exempt the institution from holding student's election for the year 2015.

2. Learned counsel for the petitioner contended that holding of election in the petitioner's educational institution is likely to create hooliganism, entry of anti-social elements, criminal act and other connected disturbances which would hamper and adversely affect the atmosphere of the educational institution. It is submitted that a representation was made before the University seeking exemption from conducting student's election on the ground that in the past years, after election, incidents happened in the institution, wherein allegation of commission of attempt of rape was made on an employee of the college. It is next submitted that whenever election takes place, destruction of the properties of the college invariably takes place and college administration suffers loss. There are no proper arrangements to ensure that during election, anti-social elements are not allowed to commit any criminal activity. Therefore, the University, in its Executive Council, ought to have considered

petitioner's application in proper perspective and exempted the institution from conducting election.

3. The requirement of holding election in a college affiliated to the privilege of the respondent / University is provided under Ordinance No.1 framed in exercise of powers conferred under Clause 21 of Section 31 of the Chhattisgarh Vishwavidyalaya Adhiniyam, 1973 wherein, provision has been made for student's union and its composition by way of elections. Second Proviso to Clause 1 of Ordinance No.1 provides that the Executive Council of the University may, in extra ordinary situations, at the request of UTD / SOS or college, as the case may be, permit it to be exempted from the operation of the ordinance.

The Ordinance, undisputedly, has the force of law. Therefore, every college, which is affiliated to the privilege of the University, is bound by the provisions of the Ordinance providing for students' election and conduct in the manner provided therein. Earlier, the petitioner had filed a writ petition before this Court raising grievance that a representation has been made to grant exemption on stated extra ordinary situations but the University, in its Executive Council, has not taken any decision.

4. Considering the said grievance, this Court had directed the University, in its Executive Council, to consider petitioner's representation. Now, the Executive Council, upon consideration of representation, has rejected prayer to grant exemption stating that no extra ordinary situation, as contended, is found existing.

5. The alleged extra ordinary situations stated by the petitioner in his representation dated 19/08/15 (Annexure P/8) relate to matters which cannot be said to be extra ordinary in nature to say that whenever elections are held, there are anti social elements entering into the institutions and creating difficulties in smooth administration and that during elections, there is every likelihood of commission of crime. The petitioner's submission of extra ordinary situation is based on an apprehension that if the elections are held, certain disturbances may occur.

6. If such contentions were to be accepted, no elections can be held anywhere. Therefore, on this material, I do not find that there is any illegality warranting interference by this Court in exercise of jurisdiction under Article 226 of the Constitution of India.

7. Learned counsel for the petitioner submitted that the petitioner has also prayed for other appropriate relief. If at all, the petitioner is compelled to hold election in view

of the provisions contained in the Ordinance, University be directed to provide appropriate financial assistance.

This prayer cannot be accepted. The provisions of the Vishvavidyalaya Adhiniyam or provisions contained in Ordinance No.1 do not contain any such obligation to provide any fund. The petitioner is a private college.

In this case, the validity of the provisions of the Ordinance is not under challenge. Therefore, validity of statutory policy contained in Ordinance No.1 cannot be examined in this petition.

8. The other grievances and connected relief prayed for in the petition is that the petitioner / institution be provided proper police protection to ensure that elections are held in a conducive atmosphere without any disturbance.

If the petitioner has any such apprehension, the petitioner may approach the local administration or police authority for providing protection for peaceful conduct of the election.

9. With the limited observation for seeking assistance of administration and police authorities in the matter of conduct of elections, no other relief can be granted to the petitioner. The petition is accordingly finally disposed off.

Sd/-

Manindra Mohan Shrivastava
Judge