

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP No. 24942 of 2015 (O&M)
Date of Decision:-05.12.2015**

Prof.(Dr.) Keshav Malhotra and others

..... Petitioners

Vs.

Panjab University and others

..... Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr. Sanjiv Bansal, Advocate
for the petitioners.

Mr. Suvir Sidhu, Advocate
for respondent No. 1.

Mr. Anmol Rattan Sidhu, Sr. Advocate with
Mr. Shiv K.Sharma, Advocate
for respondent No. 2.

Ms. Anu Chatrath, Sr. Advocate with
Ms. Harmanpreet Kaur, Advocate
for respondents No. 3,4, 7 to 9, 13 to 19.

Mr.Sandeep Suri, Advocate,
for respondent No.5.

Mr. Aditya Grover, Advocate
for respondents No. 6 and 11.

Mr. Ramandeep Singh Pandher, Advocate
for respondent No. 10.

Mr. Rahul Sharma, Advocate and
Mr. Dhruv Gupta, Advocate
for respondent No. 12.

RAKESH KUMAR JAIN, J. (ORAL)

An interesting question, arising in this petition is about the interpretation of Regulation 2.1 proviso (ii) of Chapter II (A)(v) of the Panjab University Calendar, Volume-I [for short 'the Calendar'], as to whether the Fellow/Senator can ask for change of faculty on the

expiry of two years of the assignment or at any time after two years?

The petitioners No.1 to 4 are the elected Fellows/Senators of the Panjab University (for short 'the University'). Their term commenced from 1.11.2012 and petitioners No.5 & 6 are the nominated Fellows of the Senate. The petitioners are aggrieved against the proceedings of the meeting of the Syndicate dated 22.11.2015, wherein respondents No.3 to 19 have been allowed to change their Faculties in violation of the provisions of Regulation 2.1 proviso (ii) of Chapter II(A)(v) of the Calendar.

Before I advert to the facts of this case, it would be necessary to refer to some relevant provisions of the Act and the Calendar.

“SECTION 8 - BODY CORPORATE:

Subject to the provisions of this Act, the Supreme authority of the University shall be vested in the Senate which shall consist of the –

- (a) Chancellor,*
- (b) Vice-Chancellor,*
- (c) Ex-officio fellows, and*
- (d) Ordinary Fellows.”*

“SECTION 11 - SENATE:

- (1) Omitted by Punjab Act 9 of 1956.*
- (2) The Senate shall have the entire management of, and superintendence over the affairs, concerns and property of the University and shall provide for that management, and exercise that superintendence in accordance 'with the statutes, rules and regulations for the time being in force.*

- (3) *No act done by the University shall be deemed to be invalid merely by reasons of any vacancy among either class of elected Ordinary Fellows. or by reason of the total number of Ordinary Fellows, or of members of the profession of education to be included among Ordinary Fellows, being less than the minimum prescribed by this Act,*
- (4) *Omitted by Punjab Act 9 of 1956.”*

“SECTION 12 - EX-OFFICIO FELLOWS:

- *(1) The persons for the time being performing the duties of the offices mentioned in the list contained in the Schedule** to this Act shall be the Ex-officio Fellows of the University.*
- (2) The Government may, by notification, make **alterations in the list of offices contained in the **Schedule. Provided that the Number of Ex-officio Fellows shall not exceed ***twelve.*

THE SCHEDULE (See Section 12)
LIST OF EX-OFFICIO FELLOWS

- 1. Chief Minister, Punjab.*
- 2. Chief Justice, High Court of Punjab and Haryana.*
- 3. Education Minister, Punjab.*
- 4. Chief Commissioner, Union Territory of Chandigarh.*
- 5. Director of Public Instruction, Punjab.*
- 6. Director of Public Instruction, Chandigarh.”*

“SECTION 13 - ORDINARY FELLOWS:

(1) The number of Ordinary Fellows shall not exceed eighty five and of such number-

(a) Fifteen shall be elected by the Registered Graduates from amongst themselves, among whom -

†(i) two shall be elected to represent the districts of Ferozepur, Hoshiarpur, Ludhiana and the tehsils of Muktsar, Moga and Malout in District Faridkot in the State of Punjab, and one to represent the Union Territory of Chandigarh; and

(ii) the remaining twelve shall be elected from any area including any of the areas mentioned in sub clause (i);

(b) two shall be elected by Professors on the staff of the Teaching Departments of the University from amongst themselves, provided that one member each from the Arts and Science Departments shall be elected;

(c) two shall be elected by Readers and Lecturers on the staff of the Teaching Departments of the University from amongst themselves provided that one member each from the Arts and Science Departments shall be elected:

†(d) three shall be elected by the Principals of Technical and Professional Colleges from amongst themselves among whom one shall

be elected to represent the districts of Ferozepur, Hoshiarpur, Ludhiana and the Tehsils of Muktsar, Moga and Malout in District Faridkot in the State of Punjab one to represent the Union Territory of Chandigarh and remaining one to represent any of the areas mentioned above and three shall be elected by the staff of such colleges from amongst themselves, among whom one shall be elected to represent the districts of Ferozepur, Hoshiarpur and Ludhiana in the State of Punjab, one to represent the Union Territory of Chandigarh and the remaining one to represent any of the areas mentioned above;

†(e) eight shall be elected by the Heads of affiliated Arts Colleges, from amongst themselves, among whom three shall be elected to represent the districts of Ferozepur, Hoshiarpur, Ludhiana and the tehsils of Muktsar, Moga and Malout in District Faridkot in the State of Punjab, one to represent the Union Territory of Chandigarh and the remaining four to represent any of the areas mentioned above;

†(f) eight shall be elected by the Professors, Senior Lecturers and Lecturers of affiliated Arts Colleges from amongst themselves, among whom three shall be elected to represent the districts of Ferozepur, Hoshiarpur, Ludhiana and the tehsils of Muktsar, Moga and Malout in District Faridkot in the State of Punjab, one to represent the Union

Territory of Chandigarh and the remaining four to represent any of the areas mentioned above;

(g) omitted by Government of India Notification dated 6-12-1969.

(h) six shall be elected by the various Faculties of the University;

**(i) two shall be elected by the members of the Punjab Legislative Assembly from amongst themselves, provided that the member elected is a holder of any University Degree; and*

(j) The remainder shall be nominated by the Chancellor.

***Explanation.- A person seeking election to represent a particular State or Union Territory, under Sub-clause (i) of clause (a), clause (d), clause (e) or clause (f) shall be a person whose address according to the entry in the appropriate register of electors published finally by the University after the publication in the Gazette of India of the notification of the Government of India in the Ministry of Home Affairs No.17/79/66-SR, dated the 9th July, 1968, is at a place in that State or Union Territory.*

(2) The election of any Ordinary Fellow shall be subject to the approval of the Chancellor.

(3) The Ordinary Fellow shall, save as hereinafter provided, hold office for four years.

(4) *An Ordinary Fellow who has vacated his office may, subject to the provisions of this Act be again elected or nominated as an Ordinary Fellow.*

(5) *No person elected in his capacity as a member of any of tile categories enumerated in Sub-Section (I) shall continue to hold his office after he has ceased to possess the requisite qualification.*

****(6) If in the case of any election a dispute arises whether any person is or is not a Principal, Professor, Reader, Senior Lecturer, Lecturer, or Head of a College within the meaning of clauses (b), (c), (d), (e) and (f) of Sub-Section (1), the question shall be determined by the Vice-Chancellor whose decision shall be final.*

“SECTION 19. FACULTIES :-

(1) *The Senate may constitute Faculties in such subjects as it thinks fit under regulations made in accordance with the provisions of this Act.*

(2) *Regulations made under Sub-Section (2) may-*

(a) Provide for the assignment of Fellows to the several Faculties by order of the Senate; and

(b) Empower the Fellows so assigned to add to their number, in such manner and for such period as may be prescribed, graduates in the Faculty and other persons possessing special knowledge of the

subjects to study by the represented Faculty.

Provided that the number of persons so to be added to the Faculty shall not exceed half the number of Fellows assigned to the Faculty.

- (3) *A person added to a Faculty under clause (b) of Sub-Section (2), shall have the right to take part in the ordinary business of the Faculty, and in any election of any Ordinary Fellow by the Faculty, but shall not be entitled to take part in the election of the Syndicate.”*

“SECTION 20 - SYNDICATE:-

- (1) *The Executive Government of the University shall be vested in the Syndicate which shall consist of:-*
- (a) the Vice-Chancellor as Chairman;*
 - (b) The Director of Public Instruction, Punjab; and*
 - *(ba) The Director of Public Instruction, Chandigarh.*
 - (c) Not less than twelve or more than fifteen Ex-officio or Ordinary Fellows elected by the Faculties in such manner and for such period as may be prescribed by the regulations.*
- (2) *The regulations referred to in Sub-Section (1) shall be so framed as to secure that a majority of the elected members of the Syndicate shall be Heads of, or teachers in Colleges affiliated to the University or Colleges and Teaching Departments maintained by the University.*

- (3) *If in any election the question is raised whether any person is or is not the Head of, or a teacher in a College affiliated to the University or a College or Teaching Department maintained by the University the question shall be decided by the Vice-Chancellor.*
- (4) *The Syndicate may delegate any of its executive functions to the Vice Chancellor or to the Sub-Committees appointed from amongst the members of the Syndicate or to a Committee appointed by it which may include persons who are not members of the Syndicate or to any other authority prescribed by Regulations.*
- (5) *The Syndicate may make such rules, not inconsistent with the provisions of this Act and the Regulations, as they may deem necessary for carrying on the executive Government of the University as specified in Sub-Section (1)."*

"SECTION 38:

Disputes as to Constitution of the University:-

If any question arises as to whether any person has been duly elected or appointed as, or is entitled to be a member of any authority or other body of the University, the matter will be referred to the Chancellor, whose decision thereon will be final."

"REGULATION 1.

The Faculties constituted by the Senate are:-

VIVEK PAHWA
2015.12.17 10:09
I attest to the accuracy and
authenticity of this document

- (1) Languages
- (2) Arts
- (3) Science
- (4) Law
- (5) Medical Sciences
- (6) Business Management and Commerce
- (7) Engineering & Technology
- (8) Education
- (9) Dairying, Animal Husbandry & Agriculture
- (10) Design & Fine Arts
- (11) Pharmaceutical Sciences.

*“CHAPTER II (A) (ii) THE SYNDICATE
[Regulations under Section 20 and 31(2) (c)
of the Panjab University Act, 1947]*

REGULATION 1.1. The Syndicate shall consist of;-

1. The Vice-Chancellor, Chairman;

Ex-officio members

2. The Director of Public Instruction, Punjab;

3. The Director of Public Instruction, Chandigarh.

4-18. Elected members:-

15 (Ex-officio or Ordinary Fellows) elected by the Fellows assigned to the following Faculties in the proportion indicated against each:-

<i>(a) Faculty of languages</i>	<i>..2</i>
<i>(b) Faculty of Arts</i>	<i>.. 3</i>
<i>(c) Faculty of Science</i>	<i>.. 3</i>
<i>(d) Faculty of Law</i>	<i>.. 2</i>
<i>(e) Faculty of Medical Sciences</i>	<i>.. 2</i>

(f) *Faculties of Dairying, .. 3
Animal Husbandry &
Agriculture, Education,
Business Management
and. Commerce,
Engineering & Technology,
Design & Fine Arts and
Pharmaceutical Sciences*

“REGULATION 2.1.

Fellows shall be assigned to Faculties for the whole of their term, by order of Senate with reference to their special qualifications, after considering recommendations made by Syndicate in this behalf subject to the limitations that no Fellow shall be assigned to (a) more than two out of the Faculties of Languages, Arts, Science, Law and Medical Sciences and (b) more than two out of the remaining Faculties.

Provided that –

- (i) One of the Faculties assigned to a Fellow elected by a Faculty shall include the Faculty which elected him; and*
- (ii) A Fellow may, however, ask for a change on the expiry of 2 years of the assignment, and his request will be considered by Syndicate.”*

“REGULATION 5.1.

The election of Added Members shall be held by January 31 every alternate year, by the system of single transferable vote.”

“REGULATION 5.2.

Added Members shall take office from February 1 following the date of their election

and shall cease to be members on February 1, two years later.”

From a combined reading of the aforesaid provisions of the Act and the Regulations of the Calendar, it follows that the Senate of the University is the supreme body, comprising 91 Fellows, out of whom 49 are elected from the different Faculties and Constituencies, 36 are nominated by the Vice Chancellor and 6 are ex-officio. The Senate may constitute Faculties as it thinks fit and provides for the assignment of the Fellows to the several Faculties, who are empowered to add to their number in such a manner and for such period as may be prescribed, but they should not exceed half the number of Fellows assigned to the Faculties. A member of the Senate has the tenure of four years whereas the added Fellow shall have the tenure of two years, who would have a right to take part in the ordinary business of the Faculty and in any election of any ordinary Fellow by the Faculty but shall not be entitled to take part in the election of the Syndicate. As per Regulation 1 of the Calendar, 11 Faculties have been constituted by the Senate out of which 5 Faculties namely, Arts, Languages, Science, Law and Medical Sciences are termed as major Faculties whereas, the remaining 6 faculties, namely, Business Management and Commerce, Engineering and Technology, Education, Dairying, Animal Husbandry and Agriculture, Design and Fine Arts and Pharmaceutical Sciences are known as combined Faculties or the minor Faculties. As per Regulation 2.1, a Fellow/Senator may be assigned a maximum of 4 Faculties i.e. maximum two out of major faculties and not more than two out of minor Faculties. The Syndicate is the Executive Government of the University, which

comprises of 18 members of which the Vice Chancellor is the Chairman and besides the Director of Public Instructions, Punjab and Director of Public Instructions, Chandigarh, there are 15 other ordinary Fellows, who are elected, two from Faculty of Languages, 3 from Faculty of Arts, 3 from Faculty of Science, 2 from Faculty of Law, 2 from faculty of Medical Sciences and 3 from the combined Faculties. The Registrar of the University acts as a Secretary of the Syndicate.

In the present case, the term of the Senate began on 1.11.2012, having a life span of 4 years, which would be over on 21.10.2016. Whereas, the Syndicate is elected every year and at present its term is w.e.f. 1.1.2015 to 31.12.2015. Chapter II A(v) of the Calendar, deals with the Faculties in which Regulations No.13 and 15.1 of the Calendar are also relevant in this case and are reproduced as under: -

“SECTION 13:

(i) Every Faculty shall consider recommendations of the Board of Studies/Board of Control in regard to the following matters and approve or forward the same to the Academic Council and/or the Syndicate, as the case may be, with such modifications, if any, made by the Faculty:-

- (a) Syllabi and Courses of reading to be completed by candidates for the examinations of the University;*
- (b) Minimum qualifications required for admission to various Courses;*
- (c) Other conditions to be complied with by candidates for admission to degrees, diplomas, licences and marks of honour;*

(ii) consider any other matter that may be referred to by the Academic Council and/or the Syndicate.”

“SECTION 15.1.

The recommendations of the Faculties of Languages, Arts, Science, Business Management and Commerce, Education and Design & Fine Arts, in regard to policy matters (to be decided by the Vice Chancellor) relating to educational and course curriculum development and matters having inter disciplinary bearing or major changes in the existing courses shall be submitted to the Academic Council for approval. The Council shall, however, not alter, modify, or amend them without referring them back to the faculty concerned for reconsideration. If after such a reference there is still difference of opinion between the Faculty and the Academic Council, the recommendations of the Faculty shall be forwarded to the Syndicate alongwith the recommendations of the Academic Council for final approval.”

As per the aforesaid Regulation No.13 of the Calendar, the Faculty of which the Senators are the members have to consider the recommendations of the Board of Studies/Board of Control in regard to the matter, which may be approved or forwarded to the Academic Council and/or the Syndicate with whatever modifications they deem fit. It has wide range of subjects like Syllabi and Courses of reading to be completed by candidates for the examinations of the University, minimum qualification required for admission to various courses and other conditions to be complied with by the candidates for admission to degrees, diplomas, Licenses and marks of honour. The Faculty

may also consider any other matter that may be referred to it by the Academic Council and/or Syndicate. It means that the faculty to which the Senators are allowed are to choose maximum two in the major and not more than two in the minor Faculties. They have a vital role in the academics of the University as it not only deals with the Syllabi and Courses of the University but also determine the minimum qualifications required for admission to various courses and various conditions which are to be complied with by the candidates for admission to degree or diplomas courses etc..

The petitioners have approached this Court with a prayer to quash the decision of the University permitting the change of the Faculties by the Fellows of the Senate (respondents No.3 to 19) after the expiry of more than two years, on the heels of the election of the Syndicate in which 15 members are to be elected for a period of one year.

Counsel for the petitioners has submitted that the change of Faculty can only happen on the expiry of two years. To buttress his arguments, he has referred to the averments made in the written statement filed by the University in an earlier litigation bearing *CWP No.6573 of 2012* titled as "*Malwinder Singh Kang and others Vs. Panjab University and another*" in which the petitioners, who were the members of the Syndicate had approached this Court for seeking a writ in the nature of certiorari for quashing the decision of the Syndicate dated 24.3.2012 by which their request for change of faculty was rejected. It so happened that on 12.3.2012 the then Registrar of the University issued a circular dated 12.3.2012 seeking options from the Senators/Fellows in regard to change of their

faculties. The said circular was not opted by the majority of Syndics on the ground that the Registrar had no jurisdiction to issue such a circular and as a result thereof, the envelopes containing the options by the Fellows/Senators were not even opened. The said decision taken by the Syndicate on 24.3.2012 was the bone of contention in the earlier writ petition in which the following reply was filed by the University: -

“From the above, it is clear that the purpose and object of fellows assigned to faculties is qua their contribution regarding the above. The above objects and functions of the faculties is a statutory one and extremely important in the academic development of the University. It is for this reason that during the 4 years tenure of the members of the faculty Regulation 2.1 provides that members of the Senate can be assigned to different faculties and have the option to change the Faculties only on the expiry of 2 years. Meaning thereby that the faculty members are required to be a part of the faculty for 2 years each (if they opt for change) otherwise continue to be in the same faculty for 4 years. This is so, so that they can contribute as members of the faculty for academic development in that particular faculty. If change of faculty after 2 years is allowed at any time then there would be no purpose served as the faculty members would at random seek changing of their faculties at will after a period of 2 years and that to within short intervals. The contribution of a faculty member can be gauged only if he spends 2 years in a particular faculty.”

“If this interpretation that Faculty can be changed any time after the expiry of 2 years, is allowed then the same would lead to chaotic results and further would not serve the objects and reasons for which the faculty has been made.”

The writ petition, however, was dismissed vide order dated 6.7.2012 but the question about the interpretation of Regulation 2.1 of the Calendar was left open which is being decided in the present case.

According to the counsel for the petitioners, since there are two lock-in periods of two years each for a Senator to opt for a Faculty, therefore, on 3.11.2014, the Registrar sent a notice to all the Fellows of the Panjab University asking their option to change their Faculties, if any, on the expiry of two years and requested them to submit their replies on or before 21.11.2014 by 5:00 P.M.

It is not disputed that the two Senators had applied for change of their Faculties and on their request, agenda was circulated to be placed in the meeting of Syndicate and after the agenda was received, 15 more Senators applied for change of Faculty. Thus there were 17 members in all, who had applied for change of their faculty. In an alternate argument raised by counsel for the petitioners, it is submitted that if some change in the Faculty was to be effected then it should have been done by giving notice to all the Fellows as has been done in the past and in this regard he has referred to a notice dated 3.11.2014 issued by the Registrar of the University to all the Fellows of the Panjab University wherein he had asked the Fellow Members for change of their Faculty on the expiry of two years of the

assignment. In pursuance to that notice, as many as 21 Faculty members requested for change of their Faculties which was considered and allowed by the Syndicate as change of Faculty was not an indefeasible right of the Senator rather it is their request which may or may not be accepted by the Syndicate.

It is also submitted by learned counsel for the petitioners that the change of Faculty was not in the interest of the University but because of the inherent politics involved as the election programme was announced on 13.11.2015, applications were given by 15 Senators subsequent to 14.11.2015 and on 18.11.2015 elections schedule was given. However the meeting took place on 22.11.2015 in which the change has been allowed but the minutes of the meeting were sent on 1.12.2015 to the A.R.G. (along with list), therefore, the minutes of the meeting of the Syndicate could not be attached with the petition for seeking its quashment. It is further argued that the decision of the Syndicate suffers from personal bias as 4 of the respondents namely, respondents No.3, 16, 17 and 19, who are the members of the Syndicate, had also applied for change of Faculty and have voted for themselves.

Learned counsel for the petitioners has further argued that the change of Faculty, at this stage, would also cause an imbalance because the new faculty members have a right to include add-on members. He has argued that respondent No.2 has been impleaded by name because he also had personal bias because he wanted to oust the group which is opposing the change of Faculty to support the illegal appointment of his wife in the University as a Professor in the Department of Music. It is further argued that if the

lock-in period of two years is not there in the second half of the 4 years tenure of the Senator then it would not achieve the purpose for which the Faculties are allowed to be changed as the Senators have to discharge onerous duties enjoined upon them in terms of Regulations 13 and 15.1 of Chapter II A(v) of the Calendar.

Separate replies have been filed.

In the reply filed by respondent No.1, Registrar of the University has given past history of change of Faculty in para No.11, which read as under: -

“That it is admitted that the Syndicate in its meeting dated 24.3.2012 had declined the change of faculties, however, in the past, the Syndicate had been allowing the Fellows to change their faculties after 2 years in the third year and even in the fourth year, which is the election year of conducting the election of the next Senate. The existing faculties elect six members for the new Senate in the fourth year, one each to be elected by faculties of Arts, languages, Science, medical sciences and one by the remaining faculties combined. In the Senate of 1992 to 1996, 14 Fellows were allowed to change faculty in 1994 i.e. after 2 years and in 1996 i.e. in i.e. fourth year/election year of the Senate 21 Fellows were allowed to change their faculty by the Syndicate. The minutes of the meeting of the Syndicate dated 20.2.1996 and 11.3.1996 are annexed as Annexure-R-1 & Annexure-R-II, respectively. In the Senate of 1996 to 2000, 23 Fellows were allowed to change faculty in 1998 i.e. after 2 years, 12 Fellows were allowed to change faculty in 1999 i.e. in the third year and in 2000

i.e. in the fourth year/election year of the Senate 17 Fellows were allowed to change their faculty by the Syndicate. The minutes of the meeting of the Syndicate dated 12.12.1998, dated 27.11.1999, 27.2.2000 and 18.3.2000 are annexed as Annexure R-III, Annexure R-IV, Annexure R-V and Annexure R-VI, respectively. In the Senate of 2000 to 2004, 14 Fellows were allowed to change faculty in the fourth year/election year of the Senate by the Syndicate. The minutes of the meeting of the Syndicate dated 24.1.2004, 13.3.2004 and 15.5.2004 are annexed as Annexure R-VIII, Annexure R-VIII & Annexure R-IX respectively. In the Senate of 2004 to 2008, 08 Fellows were allowed to change faculty in 2006 i.e. after 2 years and in 2008 i.e. in the fourth year/election year of the Senate of 05 Fellows were allowed to change their faculty by the Syndicate. The minutes of the meeting of the Syndicate dated 17.12.2006 and 23.03.2008 are annexed as Annexure R-X & Annexure R-XI, respectively. In the Senate of 2008 to 2012, 30 Fellows were allowed to change faculty in 2010 i.e. after 2 years by the Syndicate. The minutes of the meeting of the Syndicate dated 25.11.2010 and 24.03.2012 are annexed as Annexure R-XII & Annexure R-XIII, respectively. In the Senate of 2012 to 2016, 21 Fellows were allowed to change faculty in 2014 i.e. after 2 years and in 2015 i.e. in the fourth year/election year of the Senate 17 Fellows were allowed to change their faculty by the Syndicate. The minutes of the meeting of the Syndicate dated 22.11.2014 and of 22.11.2015 are

annexed as Annexure R-XIV and Annexure R-XV, respectively.”

It is argued by learned counsel for respondent No.1 that Registrar is only the Secretary of the Syndicate and has no right of vote as per Regulation 1.2 of the Chapter II(A)(ii) of the Calendar.

In the reply filed by Respondent No.2, following averments have been made by Vice Chancellor of the University in para No.4: -

“That the construction of the governing bodies of the Panjab University i.e. syndicate & senate is such that the groupism and the associated complexities inevitable got into play. It is respectfully prayed to this Hon’ble Court to lift the veil to know the hidden policies and the intentions of the persons behind it including the present petitioners. The matter of changing “faculties” after two years is not new to the University as it is being done since 1996 as per record to show the same minutes of meetings of Syndicate of the purpose of changing faculties since 1996(Annexure R-2/1 to R-2/a5) because of all the political reasons behind it. The menace of change of faculty in fourth year started in 1996 with oblique motive and an object to get elected or defeated somebody and it was not for academic reason that the faculties were changed. It is also worth mentioning here that in the meeting of syndicate dated 11.03.1996 21 persons were allowed to make a change out of which, 16 had shifted to Law Faculty though only two persons Dr. Pam Rajput and Sh. Prem Singh Prem, Former Education Minister were law graduates whereas 14 others were not law graduates.

The above said change was made to get defeated one fellow, who had earlier been elected from law faculty. So the object of change was not academic but only a political move.”

He has also denied the allegations made by the petitioners in para No.22 of the writ petition.

In the reply filed by the private respondents, some preliminary objections have been raised that the Syndicate members have not been impleaded though the Syndicate has taken the decision, the writ petition may be dismissed for want of necessary parties, the second respondent has unnecessarily been impleaded though the decision is taken by the Syndicate and the petitioners have an alternate remedy before the Chancellor in view of Section 38 of the Act.

Learned counsel for the petitioners has contested the preliminary objections, arguing that the impugned decision has though been taken by the Syndicate but the said decision is of the University, therefore, the University has been impleaded as respondent No.1 and insofar as Vice Chancellor/respondent No.2 has been impleaded in person, it is because of the allegations made in para No.22 of the writ petition and the petitioners do not have any other alternate remedy under Section 38 of the Act as suggested by the respondents because the said remedy would be available to the petitioners after the election and if it is also available before the election, then when the dispute was raised by the members of the Syndicate in regard to the change of the Faculty by the Fellow

members, then their objection should have been placed before the Chancellor for adjudication.

On merits, it is submitted that the language used in Regulation 2.1 of the Calendar is clear and unambiguous as it is mentioned therein that a Senator can seek the change of Faculty on the expiry of two years which may be at any time but before the expiry of two years. It is also submitted that the University is not bound by the reply filed in the earlier writ petition because Regulation 2.1 of the Calendar was not an issue involved in the said case. It is further argued that the agenda was circulated when two Senators had applied for change of Faculty and attracted by the agenda 15 more Senators had applied for the change of Faculty, therefore, the argument of the petitioners that discreet procedure had been adopted by the University is patently erroneous.

Learned counsel for respondent No.1 has also pointed out that petitioners No.2 & 3 were also part of Syndicate and their term had started from 1.11.2012 and would expire on 30.10.2016. Learned counsel for respondent No.2 has also submitted that respondent No.2 does not belong to any political party or group as alleged in the petition and is facing the heat because of his nonaligned nature because he is not supporting any of the groups.

I have heard learned counsel for the parties and examined the available record with their able assistance.

Insofar as the non-impleadment of the members of the Syndicate members is concerned, the decision might have been taken by the Syndicate but it is for and on behalf of the University, therefore, the University has been impleaded as respondent No.1 and

thus the petition cannot be dismissed on the ground of non-impleadment of necessary parties as argued by counsel for the respondents.

Section 38 of the Regulations would also not debar the petitioners on the ground of alternate remedy because it provides that in case of a dispute as to Constitution of the University, if any question arises as to whether any person has been duly elected or appointed, or is entitled to be a member of any authority or other body of the University, the matter would be referred to the Chancellor, whose decision thereon will be final but here is the case where the question is not to challenge the election rather the petitioners have challenged decision of the Syndicate allowing the Senators to change their Faculties. Rather there is force in the argument of the petitioners' counsel that if the Syndics, who were present in the meeting of the Syndicate and raised objection about the very application filed by 17 Senators for change of Faculty then it should not have passed the order rather it should have been sent to the Chancellor for his decision. I am fully in agreement with the argument raised by counsel for the petitioners in this regard, therefore, I proceed with the writ petition to decide it on merits.

Since the question is only regarding interpretation of Regulation 2.1(ii) of the Calendar, the Court has to see as to what is the object which has to be achieved by framing this provision providing 4 years term to the Senator in which first two years have been retained as a lock-in period. The answer is not farfetched and is couched in Regulation 13 of the Calendar itself wherein the duties/powers of the Faculty are provided, which includes the laying

down of Syllabi, norms for admission, minimum qualification and any other matter which is referred to it by the Syndicate/Academic Council. Thus the Faculty is supposed to know ins and outs of the Faculty for which the law has provided them two years period to understand and react. It is also important to note that the Senator whose tenure is 4 years has been allowed to retain that Faculty from which he is returned as a Senator besides the other three Faculties and after apprising him of with the niceties of the Department/Faculty, he would be in a position to deal with the recommendations made by the Board of Studies/Board of Control and Academic Council on the subjects delineated hereinabove as are provided in Regulation 13 of the Calendar. Thus, it is amply clear as to why two year period has been given as a lock-in period for such Senators in a particular Faculty. Now, the question arises as to whether the word '*on the expiry*' would mean at any time after two years or immediately at the time of expiry of two years the option to be given for change of Faculty? I am of the considered opinion, keeping in view the task of the Senators, in terms of Regulation 13 of the Calendar, they are not supposed to ask for change of Faculty at any time after two years because in that eventuality they can exercise that option even at the fag end of the last two years for the purpose of change of Faculty for which they would not contribute to the education system for which they have been elected as Senator.

Thus, the *sine qua non* is the object to be achieved, provided in Regulation 13 of the Calendar, by the Senators. Even otherwise, in the earlier case of *Malwinder Singh Kang (Supra)* the respondent/University has taken a very categoric stand about the

change of Faculty on the expiry of two years and now in this case they cannot be allowed to take a different stand to allow them to blow hot and cold in the same breath. For example, it has been mentioned in the reply, in the case of *Malwinder Singh Kang (Supra)* that *“It is for this reason that during the 4 years tenure of the members of the faculty Regulation 2.1 provides that members of the Senate can be assigned to different faculties and have the option to change the faculties only on the expiry of two years. Meaning thereby that the Faculty members are required to be a part of the Faculty for 2 years (if they opt for change).”*

It further provides that *“If change of faculty after two years is allowed at any time then there would be no purpose served as the Faculty members would at random seek changing of their Faculties at will after a period of two years and that took within short intervals.”*

Furthermore, the timings for changing the Faculty has a significance because private respondents knew about this fact that election of Syndicate is going to take place in the first week of December as usual and the election schedule would also be declared sometime in the mid of November, therefore, they applied for change of their Faculties on 14.11.2015, whereas the election schedule was given on 18.11.2015, and because of that they would be in a position to either stop the entry by election of the candidate of their opposing group in the Syndicate or they could get their own person elected as a member of Syndicate, as stated even by the Vice Chancellor in para No.4 of his reply.

As regards the argument of learned counsel for the petitioners that in the meeting dated 22.11.2015, out of 15 members,

4 members, who are respondents No.3, 16, 17 & 19, had also opted for change of Faculty, recused from attending the meeting. In return, learned counsel for the respondents has submitted that initially when the Senators are elected for the Faculty and are assigned the faculty for their whole term, it is by the order of the Senate with reference to their special qualification, after considering recommendation made by the Syndicate in this behalf. Therefore, it is submitted that for the initial two years or for the whole term, the Faculty is not allotted to a Senator automatically but it is by the order of the Senate. I have found force in the argument of learned counsel for the respondents and hence the argument of the petitioners of personal bias is hereby rejected.

The sum and substance of the aforesaid discussion leads to an irresistible conclusion that Regulation 2.1 of the Calendar has three parts namely, a Senator can opt for a Faculty for the whole term of four years, he can opt for Faculty for two years for two major and two minor Faculties and for the remaining two years he has to take a decision on the expiry of the Ist part of two years and not at any time thereafter. Thus, the decision of the Syndicate dated 22.11.2015, while approving the agenda item No.10, is hereby set aside and as a consequence thereof, the list of the change of Faculty also does not survive. Consequently, the University shall announce fresh date of election of the Syndicate within six days. Since list (Annexure P-1) has been struck down, the elections of the Syndicate and Dean, which are scheduled to be held on 6th and 7th December 2015 have to be rescheduled as per the old Faculty which was in

existence before the agenda item No.10 was passed on 22.11.2015 and the change in the Faculty of 17 members was ordered.

Needless to mention that the University shall hold the election of the Syndicate, in accordance with law.

Petition is thus, allowed. No cost.

05.12.2015

Vivek

**(RAKESH KUMAR JAIN)
JUDGE**