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

+ LPA 482/2016

DR V K AGRAWAL

.....Appellant

Through: Kumar Rajesh Singh, Adv. with Mrs.
Punam Singh, Advocate.

Versus

UNIVERSITY OF DELHI & ORS

....Respondents

Through: Mr. Amit Bansal, Advocate.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

ORDER

10.11.2016

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1. This appeal is preferred against the judgment rendered by the learned Single Judge dated 07.07.2016 in W.P.(C) No. 4992/2015. The unsuccessful petitioner is the appellant before us.
2. It is the case of the appellant that he was a teacher of a college of the University and held the membership of the Executive Council as a teacher representative under category (xi) of clause (1) of Statute 5 of the University for two terms during the period from 18.12.1994 to 17.12.1996 and from 23.12.1998 to 22.12.2000 and retired from regular service of the constituent college of the University on 31.07.2004. Post-retirement, the appellant was elected to the University Court with effect from 26.02.2013 for a term of five years in the category of Alumni Association.
3. Thereafter, the appellant filed nomination papers for the election to the

Executive Council under category (x) of clause (1) of Statute 5 of the University.

4. The respondent No. 3 herein challenged the acceptance of the said nomination by filing an appeal before the Vice Chancellor of the University on the ground that the appellant had already been elected for two terms as member of the Executive Council under category (xi).

5. The Vice-Chancellor of the University vide order dated 18.08.2014 held the appellant to be not eligible for election to the membership of the Executive Council of the University under category (x) as Statute 5(2) of the University makes it clear that the maximum period for a member to hold office is two terms irrespective of the category under which he is elected.

6. Aggrieved by the said order dated 18.08.2014, the appellant filed Writ Petition No. 4992/2015. The same was dismissed by the learned Single Judge by the order under appeal dated 07.07.2016 holding as under:

“14. I am of the view that if the intent behind Statute 5(2) of the University was to limit the time for which a person could be a member of the Executive Council, it matters not whether such a person has become a member under one or the other category. The intent was to not allow a person to be a member of the Executive Council for a term longer than total of four years, if under one category and of six years, if under another category. The term of members under different categories is prescribed in Statute 5(3) as under:

“(3) Members referred to in items (vii)(b) & (c), (viii) and (x) of Clause (1) shall hold office for a term of two years while those referred to in items (ix), (xi) and (xii) for a term of three years.”

15. Seen in this light, it would matter not which category

has sent the member to the Executive Council. The spirit of Statute, of having new blood in the Executive Council from time to time, would certainly be defeated if it were to be held that a person can be a member of the Executive Council for two terms of three years each under category (xi) and thereafter again become a member of the Executive Council for another two terms of two years each under category (x), giving the person a total term of ten years, instead of four years or six years in the Executive Council.”

7. The counsel for the appellant before us contended that the two categories (x) & (xi) of Clause (1) of Statute 5 of the University are distinct in terms of tenure as well as the composition of electoral roll and cannot be clubbed together for the purpose of the restrictive clause in Statute 5 (2) of the University and the election of the appellant as a member of the Executive Council under category (xi) cannot bar the appellant from seeking election under category (x). He urged that the said two categories are mutually exclusive and that the appellant has never been a member of the Executive Council of the University under category (x) aforesaid and therefore, he is entitled to contest elections under category (x).

8. It is further contended by the learned counsel for the appellant that the respondent No. 3 did not raise any objection promptly or at the earliest even though he had the opportunity to do the same at the time of filing the nomination form by the appellant and/or at the time of scrutiny thereof. Therefore, according to the appellant, the respondent No. 3 was precluded from preferring the appeal.

9. Per contra, the learned counsel for the respondents submitted that the acceptance of nomination for election to the post of member of Executive Council, Delhi University is not a matter of right and is subject to fulfilment of

eligibility criteria laid down under the provisions of the Statutes of the University. Furthermore, the word “or” in Statute 5(2) of the University denotes that no person can be a member under either of the two categories for more than two terms. He added that in accordance with Section 41 of the Delhi University Act, 1922 the decision taken by the Vice-Chancellor in this regard has to be treated as final and binding.

10. We may at the outset refer to the relevant clauses of Statute 5 (1) of the University, which read as under:

“(x) Four persons, none of whom shall be an employee of the University or of a recognized College or Institution, elected by the Court from among its Members in accordance with the Rules laid down in Appendices ‘A’ and ‘X’ to these Statutes, at least one of those so elected being a member of the Alumni Association,

(xi) Two persons elected from amongst themselves by the teachers of the University & Library staff of the rank of Professional Junior and above of the University Library & College librarians other than the Deans of Faculties, the Principles of Colleges and the Proctor, the election to be held in accordance with the Rules laid down in Appendices ‘A’ and ‘X’ to these Statutes.”

11. Statute 5 (2) of the University which restricts a person to be a member of the Executive Council under clause (x) or (xi) for more than two terms may also be reproduced:-

“(2) No person shall be a member under item (x) or (xi) of Clause (1) for more than two terms.”

12. Having regard to the language of Statute 5 (2) of the University, we are of the view that the learned Single Judge was right in holding that the same is intended to limit the number of times a person could seek election as a Member

of the Executive Council. Having considered in detail the effect of the word "or" used in Statute 5(2), the learned Single Judge held as under:-

“23. I have also wondered as to what difference it would have made had the word ‘and’ instead of the word ‘or’ been used in Statute 5(2) supra. According to me the same also would not have indicated that the total of the terms in the Executive Council, whether under category (x) or under category (xi), could be more than two. I am therefore of the opinion that the word ‘or’ in Statute 5(2) has been used only as a particle to connect categories (x) and (xi) representing alternatives, as held in **J. Jayalalitha** supra and the purport thereof is to bar more than two terms for elected members of the Executive Council, under whichever category from which election can be sought. Had the intention been to provide two terms under each of the two categories from which election to the post of member of the Executive Council can be sought, the statute would have been worded as “No person shall be a member for more than two terms under each of the items (x) and (xi) of clause (1)”.

13. We fully concur with the reasoning of the learned Single Judge. Consequently, the conclusion of the learned Single Judge that the appellant who held office as a Member of the Executive Council of the University for two terms under Clause (xi) is not entitled to contest again warrants no interference.

14. It may also be added that in a catena of decision the Supreme Court has defined the role of statutory expert bodies constituted with regard to educational institutions and role of courts by a simple rule i.e. if it is a question of an issue involving an educational institution, the courts keep their hands off. In **Maharashtra State Board of Secondary and Higher Secondary Education v. Paritosh Bhupeshkumar Sheth**, (1985) 1 SCR 29 the Supreme Court observed that the role of Courts in interference with the functioning and

orders of the educational authorities should be minimal and it should be left to those professional men possessing technical expertise and rich experience of actual day-to-day working of educational institutions. The same principle was reiterated by the Supreme Court in *Director (Studies), Dr. Ambedkar Institute of Hotel Management, Nutrition & Catering Technology Vs. Vaibhav Singh Chauhan*, (2009) 1 SCC 59. Thus, in view of Section 41 of the University Act, which empowers the Vice-Chancellor to decide as to whether a person is eligible under the Statute to be a Member of the Executive Council, the decision of the Vice-Chancellor has to be treated with finality and has to be given due weightage.

15. For the aforesaid reasons, the appeal is devoid of merit and the same is accordingly dismissed.

CHIEF JUSTICE

SANGITA DHINGRA SEHGAL, J

NOVEMBER 10, 2016

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