

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 2424 of 2017****Order reserved on : 05/09/2017****Order delivered on : 06/09/2017**

Gunjan Kumar Sinha, S/o. Shri Tarachand Sinha, aged about 20 years, R/o. Ward No. 12, Narharpur, District Kanker (Chhattisgarh).

---Petitioner**Versus**

1. State of Chhattisgarh, through: Secretary, Department of Higher Education, Government of Chhattisgarh, Raipur (Chhattisgarh).
2. Registrar, Chhattisgarh Swami Vivekanand Technical University, Bhilai (Chhattisgarh)

---Respondents

For petitioner : Mr. Anis Tiwari, Advocate.

For respondent No.1/State : Mr. Dheeraj Wankhede, G.A.

Hon'ble Shri Justice Sanjay K. Agrawal**Order [C.A.V.]**

1. This writ petition has been filed calling in question the order dated 22.08.2017 directing all the Universities to constitute Students' Union by way of nomination.
2. Mr. Anis Tiwari, learned counsel for the petitioner, would submit that the nomination procedure adopted for constitution of Students' Union is contrary to the recommendation of Lyngdoh Committee which has been accepted by the Supreme Court on 22.09.2006 in

case of University of Kerala (1) v. Council, Principal', Colleges, Kerala and others¹. Therefore, the order of the State Government deserves to be set aside.

3. On the other hand, Mr. Dheeraj Wankhede, learned counsel for the State, would support the impugned order and submit that order of the State Government dated 22.08.2017 is strictly in accordance with the decision of the Supreme Court in University of Kerala (supra).

4. I have heard learned counsel for the parties and considered their rival submissions made herein-above.

5. In order to decide the dispute, it would be appropriate to notice the recommendation of Lyngdoh Committee which were accepted by the Supreme Court in University of Kerala (supra). Paragraph 3 states as under:-

“3. The recommendations are:

“6.1.1. Universities and colleges across the country must ordinarily conduct elections for the appointment of students to student representative bodies. These elections may be conducted in the manner prescribed herein, or in a manner that conforms to the standards prescribed herein.

6.1.2. Where the atmosphere of the university campus is adverse to the conduct of peaceful, free and fair elections, the university, its constituent colleges and departments must initiate a system of student representation based on nominations, especially where elections are being held at present. It would be advisable, however, not to base such nomination system on purely academic merit, as is being practised throughout the country.

6.1.3. In cases where elections are not being held, or where the nomination model prevails, the nomination model should be allowed to continue for a limited period of

1 (2006) 8 SCC 304

time. It is to be noted that the nomination system suffers from several flaws, and must only be resorted to as an INTERIM MEASURE.

6.1.4. Subject to the recommendations in respect of the possible model of elections, all institutions must over a period of 5 years, convert from the nomination model to a structured election model, that may be based on a system of parliamentary (indirect) elections, or on the presidential (direct) system, or a hybrid of both. It is highly desirable that all institutions follow this mechanism of gradual conversion, especially for privately-funded institutions that prefer a status quo situation.

6.1.5. All institutions must conduct a review of the student representation mechanism. The first review may be conducted after a period of 2 years of the implementation of the mechanism detailed above, and the second review may be conducted after the 3rd or the 4th year of implementation. The primary objective of these reviews will be to ascertain the success of the representation and election mechanism in each individual institution, so as to decide whether or not to implement a full-fledged election structure. Needless to say these reviews will be based on a consideration of the views and suggestions of all stakeholders, such as students, faculty, administration, student bodies, and parents.

6.1.6. Institutions must, as a primary objective, subject to the pertinent issue of discipline on campus, seek to implement a structured system of student elections by conclusion of a period of 5 years from the date of the implementation of the recommendations.

6.1.7. Subject to the autonomy of the universities in respect of the choice of the mode of election, all universities must institute an apex student representative body that represents all students, colleges and departments coming under the particular university. In the event that the university is geographically widespread, individual colleges may constitute their own representative bodies, which would further elect representatives for the apex universities' bodies.

6.1.8. The union/representative body so elected shall only comprise of regular students on the rolls of the institution. No faculty member, nor any member of the administration shall be permitted to hold any post on the executive of such representative body, nor shall be allowed to be a member of any such representative body."

6. Mr. Tiwari relying upon recommendation 6.1.2 to 6.1.4 would submit that the college where the petitioner is studying, elections are not being held and nomination model prevails and therefore, as per the order of the Supreme Court, students' election must be initiated and the order of the State Government deserves to be set aside.

7. In the writ petition filed by the petitioner, the petitioner has not given the details with regard to the nomination procedure adopted by that College, in order to succeed in the writ petition. The petitioner must aver that students' representation is based on nomination for five years or more, therefore it be converted to the students' election model. Paragraph 6.1.5 of the recommendations stipulates that responsibility to conduct a review of student representation mechanism has been conferred by the Supreme Court to the Institution/College as in the instant case, the Shankaracharya Institute of Professional Management and Technology, Raipur, but unfortunately the said institute has not been impleaded as a party respondent in this writ petition.

8. As per paragraph 6.1.6 of the recommendation, it must be brought to the notice of the Court that there is no issue of indiscipline in the campus for directing the institution to implement a structured system of students' election, but that has also not been brought on record.

9. Lastly, the petitioner has prayed for directing holding of students'

elections but the concerned institute has not been arrayed as a party in this writ petition. Last date for completion of nomination procedure is 05.08.2017, whereas the writ petition has been filed only on 31.08.2017.

10. Thus, in view of the above discussion, I do not find any good ground to entertain the writ petition. Writ petition deserves to be and is accordingly dismissed.

Sd/-
(Sanjay K. Agrawal)
Judge