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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 2220/2017, CM No. 9691/2017**
ABHISHEK VERMA

..... Petitioner

Through: Mr. Gautam Awasthi, Adv. with Mr.
Ayush Choudhary & Mr. Tushar
Gupta, Adv.

versus

UNIVERSITY OF DELHI & ANR

..... Respondent

Through: Mr. Mohinder J.S. Rupal, Adv. with
Ms. Disha Malhotra, Adv.

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER
% **22.05.2017**

CM No. 9691/2017

Exemption allowed subject to all just exceptions.

Application stands disposed of.

W.P.(C) 2220/2017

1. The present petition has been filed by the petitioner with the following prayers:-

“In view of the aforesaid facts and circumstances it is most respectfully prayed that this Hon’ble Court may be pleased to:-

(i) Issue an appropriate writ, order or direction in the nature of certiorari for quashing the communication dated

11.08.2016, issued by the respondent No.1 herein;

(ii) Issue an appropriate writ, order or direction in the nature of mandamus directing the respondents to accept the research scholar in the Department of Chemistry, as members/affiliates of respondent No.2 herein in view of the resolution dated 27.05.2016;

*(iii) Issue a writ/order in the nature of mandamus directing the respondent No.2 to amend the provisions of its constitution in accordance with the maximum age limit prescribed by the Lyngdoh Committee and accepted by the Hon'ble Supreme Court of India in the case of **University of Kerala V/s. Council of Principal of College** (2006) 8 SCC 304; so as to enable the eligible research scholars to contest/participate in the election of DUSU, respondent No.2 herein; and*

(iv) Pass such other or further order as this Hon'ble Court may deem and proper to the facts and circumstances of the case."

2. This is a third round of litigation, inasmuch as the petitioner had earlier filed W.P.(C) Nos. 3132/2016 and 6522/2016. Both the Writ Petitions were dismissed as withdrawn on May 26, 2016 and August 29, 2016 respectively. On May 26, 2016 the Court (in W.P.(C) 3132/2016) had passed the following order:-

"1. This order is in continuation of the earlier orders dated 8th April and 3rd May, 2016.

2. *Though the respondent No.2 Delhi University Students Union (DUSU) has been served but none appears.*
 3. *The counsel for the respondent No.1 Delhi University (DU) states that the petitioner as a Research Scholar with the Chemistry Department of DU can participate in elections of the Delhi University Research Scholar Association (DURA), though also states that the said body has not been holding its elections and is defunct.*
 4. *Without the Chemistry Department of DU being part or affiliated to DUSU and / or DUSU admitting the said Chemistry Department, the petitioner even if were to be directed to be eligible for election by acceptance the Lyngdoh Committee recommendations, the petitioner would not be able to participate in DUSU elections.*
 5. *The counsel for the petitioner seeks to withdraw the petition with liberty to file a fresh petition / take appropriate remedies.*
 6. *Dismissed as withdrawn with liberty aforesaid.*
- No costs.”*

3. On August 29, 2016, the Court (in W.P.(C) 6522/2016) had passed the following order:-

“Mr. Abhishek Saket, learned counsel appearing on behalf of the petitioner seeks leave to withdraw this petition with liberty to assail the communication dated 11.08.2016, addressed to the petitioner by the Deputy Registrar (Academic), Delhi University, in an appropriate proceeding, in accordance with

law.

Leave and liberty granted.

The petition is dismissed as withdrawn and disposed of accordingly. The date already fixed i.e. 05.09.2016, stands cancelled.”

4. It is the contention of the learned counsel for the petitioner that the reasoning given by the respondent No.1 in the impugned communication is contradictory, inasmuch as on one hand the University has stated, there has been in existence a Student Representative Body for Research Scholars namely Delhi University Researcher's Association ('DURA' for short). On the other hand, concedingly the process of conducting election was discontinued by DURA. The University has also stated, the request of the Research Scholars can be addressed only in accordance with the provisions of DURA. He states that if DURA is a defunct body, the researchers cannot represent themselves through that body in DUSU. It is precisely for this reason, the students of the Chemistry Department has vide their communication dated May 27, 2016 by passing a resolution, requested the Vice Chancellor declaring the Department of Chemistry to be a Member of DUSU in accordance with DUSU Constitution. He further states, a student of the Department can affiliate himself to DUSU. In support of this submission, he refers to a reply to an RTI application given by the

Department of Social Work, University of Delhi to the following effect:-

“Dear Sir,

This is with reference to your letter No.Info./OA/114/2017 dated 23rd January 2017 seeking information by Aditya Kumar under RTI Act, 2005. The point wise reply of the RTI is as under:-

- 1. M.Phil students of the Department are entitled to participate in DUSU elections.*
- 2. Research Scholars (Ph.D.) of the Department are not allowed to participate in the DUSU elections as per University rules.”*

5. In this regard, he states the issue that the Research Scholars must affiliate themselves to DUSU through a representative body i.e DURA, is not tenable, inasmuch as the petitioner can in his individual capacity be a Member of DUSU. That apart, it is his submission that when M.Phil students are entitled to participate in DUSU elections, the Research Scholars (Ph.D), who are also students of the University can also participate and cannot be discriminated. He lay stress on the judgment of the Supreme Court in the case reported as **(2006) 8 SCC 304 University of Kerala v. Council, Principal’s Colleges, Kerala and others** to contend that the Supreme Court has accepted the Lyngdoh Committee’s recommendations and in terms of the Lyngdoh Committee’s recommendations, the upper age

limit for Research Scholars to participate in the election is 28 years and they have not barred from participating in elections. A Research Scholar includes, a student, who is doing Ph.D.

6. On the other hand, Mr. Mohinder J.S. Rupal would justify the impugned order by stating when there is already a Researcher's Association in Delhi University, the representation of the Researchers in DUSU need to be through that Association. Hence, the question of the petitioner participating in the election of DUSU does not arise. That apart, he states that the reliance placed by the learned counsel for the petitioner on the judgment of the Supreme Court in *University of Kerala (supra)* is concerned, the same would not be applicable to a Ph.D. student, inasmuch as in terms of the Lyngdoh Committee's recommendations, which have been accepted by the Supreme Court, a candidate should have attained the minimum percentage of attendance as prescribed by the University or 75% attendance, whichever is higher. That apart, it is also contemplated that a candidate must be a regular full time student of the College/University and should not be a distant/proximate education student. In other words, all eligible candidates must be enrolled in full time course of at least one year. It is his contention that the petitioner being a Ph.D. Scholar is not a regular

student in that sense as there is no compulsion of Scholar having 75% of attendance. He states that is the reason, the Department of Social Work, University of Delhi, in its communication dated January 25, 2017 has inter-alia stated M.Phil students of the Department are entitled to participate in DUSU election and not the Research Scholars (Ph.D.). He seeks the dismissal of the petition.

7. Having heard the learned counsel for the parties, it is not disputed that the petitioner is a Ph.D. student of the Delhi University. There is no stipulation in the DUSU Constitution enabling the Department of Chemistry to be an affiliate of DUSU. In the absence of the same, the individual petitioner or for that matter the Department of Chemistry cannot seek a prayer in the nature of a direction to the respondents to accept the Research Scholars as Member(s)/Affiliate(s) of DUSU.

8. That apart, the submission of Mr. Rupal that for a Ph.D. Scholar, the mandatory requirement of attendance is not applicable and he / she is not a regular student unlike a student pursuing a regular course, is also appealing. That apart, if the plea of the petitioner is accepted then the Research Scholars who are doing Ph.D in other Departments may also lay a claim. Further, there may be students, who are pursuing M.Phil in Department of

Chemistry, who are differently placed than the students pursuing Ph.D, who can make a claim by relying on the RTI reply of Department of Social work. The present petition at the behest of the petitioner, who is a Research Scholar (Ph.D.) for the reliefs prayed for in the writ petition is without any merit. The same is dismissed.

V. KAMESWAR RAO, J

MAY 22, 2017/ak