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

+ **Date of Decision: 18.07.2017**

% **LPA 481/2017**

ABHISHEK VERMA

..... Appellant

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

versus

UNIVERSITY OF DELHI & ANR

..... Respondents

Through: Mr. Mohinder JS Rupal, Rakesh
Tanwar and Prang Newmai, Adv.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE REKHA PALLI

VIPIN SANGHI, J. (ORAL)

C.M. No. 24941/2017

Exemption allowed, subject to all just exceptions. The application stands disposed of.

C.M. No. 24940/2017

For the reasons stated in the application, the delay in filing the appeal is condoned. The application stands disposed of.

C.M. No. 24939/2017

For the reasons stated in the application, the additional documents filed are taken on record. The application stands disposed of.

LPA 481/2017

1. The appellant has preferred the present appeal to assail the judgment dated 22.05.2017 rendered by the learned Single Judge in W.P.(C.) No. 2220/2017. The learned Single Judge has dismissed the writ petition preferred by the appellant, wherein the appellant had primarily sought the relief that the appellant – who is a PhD student at the Delhi University, be permitted to participate in the Delhi University Students Union (DUSU) Elections.

2. The learned Single Judge has taken note of the decision of the Supreme Court in *University of Kerala v. Council, Principal's Colleges, Kerala & Ors.*, (2006) 8 SCC 304, (referred to as “University of Kerala 1”)- wherein the Supreme Court accepted the Lyngdoh Committee’s recommendations on the aspects of formation of students Unions and Associations in Universities and, in effect, held that under the said recommendations and the constitution of DUSU, PhD students of Delhi University could not be considered to be entitled to become members of, or participate in the elections conducted by DUSU.

3. The submission of counsel for the appellant is that under the Lyngdoh Committee recommendations, which have been accepted in *University of Kerala 1*(supra), the appellant is not excluded from being considered eligible

to participate in the election process conducted in respect of the DUSU. Learned counsel submits that the appellant is entitled to form, and be associated with an association to raise issues concerning the PhD students of Delhi University. He submits that merely because the appellant is pursuing PhD at Delhi University, he does not cease to be a student or a regular full time student of the University.

4. The appellant submits that he satisfies the condition prescribed in the Lyngoh Committee recommendations that the student – to become a member of the union/ representative body, shall be a regular student on the rolls of the institution. Learned counsel submits that even for pursuing the PhD course, the students are required to pursue a course; attend classes, and; maintain records which are checked by the supervisors on regular basis. Thus, it cannot be said that the PhD students do not pursue a course, or that there is no requirement of maintaining attendance at the University in respect of PhD students.

5. The further submission of counsel for the appellant is that the inclusion of PhD students in the DUSU would also enrich the said body, and it would not be adverse to the interest of the other students of the university or to the discipline or atmosphere in the university, to allow the PhD students to become part of the DUSU. He has drawn our attention to the order of the Supreme Court in “*University of Kerala v. Council, Principal’s College, Kerala & Others*” in Civil Appeal No.887/2009 dated 08.12.2011 (referred to as “University of Kerala 2”), wherein the Supreme Court applied the Lyngdoh Committee recommendations even in respect of the Jawahar Lal Nehru University (JNU) – which is a research oriented university and a

post-graduate university. Thus, learned counsel submits that the Lyngdoh Committee recommendations are not limited in their scope to unions/associations of merely undergraduate or postgraduate students.

6. Learned counsel further submits that the students association in respect of PhD students and other research scholars i.e. Delhi University Researchers Association DURA has been defunct for the last about 15 years and, consequently, the debarment of the appellant from participating in the DUSU elections has deprived him, and other research students of the university of their fundamental right of forming and being represented through an Association/Union. Learned counsel submits that research students of the university are entitled to remain members and participate both in DUSU and DURA.

7. On the other hand, Mr. Rupal, who appears on advance notice, has supported the impugned judgment. He has drawn the attention of the Court to the eligibility criteria fixed by the Lyngdoh Committee report in clause 6.5. The said clause reads as follows:

“6.5. Eligibility criteria for candidates

6.5.1. Undergraduate students between the ages of 17 and 22 may contest elections. This age range may be appropriately relaxed in the case of professional colleges, where courses often range between 4 to 5 years.

6.5.2. For postgraduate students the maximum age-limit to legitimately contest an election would be 24-25 years.

6.5.3. For research students the maximum age-limit to legitimately contest an election would be 28 years.

6.5.4. Although the Committee would refrain from prescribing any particular minimum marks to be attained by a candidate, the candidate should in no event have any academic arrears in the year of contesting the election.

6.5.5. The candidate should have attained the minimum percentage of attendance as prescribed by the university or 75% attendance, whichever is higher.

6.5.6. The candidate shall have one opportunity to contest for the post of office-bearer, and two opportunities to contest for the post of an executive member.

6.5.7. The candidate shall not have a previous criminal record, that is to say he should not have been tried and/or convicted of any criminal offence or misdemeanour. The candidate shall also not have been subject to any disciplinary action by the university authorities.

6.5.8. The candidate must be a regular, full-time student of the college/university and should not be a distance/proximate education student. That is to say that all eligible candidates must be enrolled in a full-time course, the course duration being at least one year”. (emphasis supplied)

8. He further relies on clause 6.1.8 of the said recommendations, which reads as follows:

“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”. (emphasis supplied)

9. Mr. Rupal submits that clause 6.5 itself shows that the PhD students are excluded from participating in the elections of DUSU inasmuch, as, the age limit for postgraduate students has been fixed as 24-25 years and, even

for research students, the maximum age limit to legitimately contest the election is 28 years. He submits that more often than not, the PhD students cross this age bar. He submits that in case the PhD students are permitted to participate in and contest the DUSU elections, it could lead to an anomalous situation where some of the students may be entitled to participate in the election process, while many others may be over age. Under clause 6.5.5, a candidate is required to attain minimum percentage of attendance as prescribed by the university or 75%, whichever is higher. This clause itself shows that PhD students are excluded, since they are not obliged to maintain any minimum percentage of attendance by the university.

10. Mr. Rupal further submits that the PhD students cannot be considered regular full time of the college/ university. Such students may not even be stationed in Delhi. Clause 6.5.8 further requires that eligible candidate must be enrolled in full time course – the course duration being at least one year. The PhD students neither pursue a full time course, nor is the “course” pursued by them of a duration of at least one year.

11. Mr. Rupal further submits that the constitution of DUSU also impliedly debars the PhD students from becoming members and contesting the elections. In this regard, he has drawn the attention of the Court to clause 12 of the constitution, which reads as follows:

“12. Disqualifications for Office-Bearers

1. No member of the Union shall be entitled to hold any post of office bearer, if,

- (i) *He/she has exceeded the age of 25 year on the 16th August of the year in which he/she wishes to seek election; or*
- (ii) *He/she completed more than 7 year from the 1st July of the calendar year of passing +2 examination to the 30th June immediately preceding the election.*
- (iii) *He/she has been convicted of a criminal offence including moral turpitude, or he/she has been punished by the University/College for an act which is coercive in nature and constitutes a threat to life and property; or*
- (iv) *He/she has been found guilty of and punished for the use of unfair means in any examination of a University or Board". (emphasis supplied)*

12. The above clause clearly puts an upper age limit of 25 year on the 16th August of the year in which a candidate wishes to seek election as a member of DUSU. This clearly rules out the PhD students. Moreover, a student who may have studied at the undergraduate and postgraduate level in Delhi University, and thereafter may be pursuing PhD, would also get excluded as he/ she would, in all likelihood, be barred by clause (ii) above.

13. Mr. Rupal further submits that PhD students and other research students are entitled to revive the DURA. In this regard, he has referred to the communication dated 11.08.2016 issued by the University, wherein the University has stated that the concerns of the research scholars could be addressed in accordance with the provisions of DURA constitution and the research scholars can continue their representation through DURA.

14. During the course of submission, Mr. Rupal has submitted that the

University shall provide the constitution of DURA to the appellant, if requested by the appellant. He further submits that the University would facilitate the revival and holding of the elections of DURA, so that the concern of the research students like the appellant could be addressed by the University.

15. Having heard learned counsels for the parties, we are of the view that the impugned judgment rendered by the learned Single Judge does not call for interference in the present appeal.

16. In *University of Kerala 1* (supra), the Supreme Court accepted the recommendations of the Lyngdoh Committee in relation to the formation and holding of elections of students unions and associations in universities. The said recommendations were clearly intended to deal with the aspects of formation of students associations and unions and the holding of their elections in respect of students who were pursuing undergraduate, post-graduate and research courses. This is evident from the recommendations contained in Clauses 6.1.8 and 6.5 extracted hereinabove. The age limit fixed for the undergraduate; post-graduate and; research students – the upper age limit being 28 years for research students, practically, completely rule out those students who are pursuing Ph.D. This is also evident from Clause 6.5.5. which prescribes attainment of minimum percentage of attendance as prescribed by the university, or 75% attendance, whichever is higher. In respect of Ph.D. students, the appellant have not been able to show any prescription laid down either by the UGC or by the respondent University with regard to maintenance of minimum attendance.

17. The appellant has not contended and cannot contend, that in respect of Ph.D. students, there is any prescription of “*minimum percentage of attendance*” by the University.

18. Even more importantly, the Lyngdoh Committee recommendations provide in Clause 6.5.8 that the candidate must be a regular, full-time student of the college/ university and all eligible candidates must be “*enrolled in a full time course, the course duration being at least one year.*”

19. At this stage, we may take note of the notification dated 05.05.2016 issued by the Ministry of Human Resources Development, University Grants Commission, New Delhi by which the “University Grants Commission (Minimum Standards and Procedure for Award of M.PHIL/PH.D Degrees) Regulations, 2016” (Regulations for short) have been framed. These Regulations have been framed in supersession of the earlier regulations on the same subject, published in the Gazette for the week 11/17.07.2009. Clause 2 of the Regulations prescribes the eligibility criteria in admission to the M. Phil programme. Clause 3 of these Regulations prescribes the eligibility criteria for admission to the PhD programme. It makes eligible a Masters Degree holder, who satisfy the criteria stipulated in clause 2, as well as candidates who have cleared the M.Phil course work with at least 55% marks in the aggregate. There are other conditions laid down in this regard with which we are not concerned. The PhD programme “*shall be for a minimum duration of three years **including course work** and a maximum of six years*” (emphasis supplied). Clause 7 of these regulations deals with the subject of “*Course Work*”. Since the same is relevant, it is reproduced herein below:

“7. Course Work: Credit Requirements, number, duration, syllabus, minimum standards for completion, etc.

7.1 The credit assigned to the M.Phil. or Ph.D. course work shall be a minimum of 08 credits and a maximum of 16 credits.

7.2 The course work shall be treated as prerequisite for M.Phil./Ph.D. preparation. A minimum of four credits shall be assigned to one or more courses on Research Methodology which could cover areas such as quantitative methods, computer applications, research ethics and review of published research in the relevant field, training, field work, etc. Other courses shall be advanced level courses preparing the students for M.Phil./Ph.D. degree.

7.3 All courses prescribed for M.Phil. and Ph.D. course work shall be in conformity with the credit hour instructional requirement and shall specify content, instructional and assessment methods. They shall be duly approved by the authorized academic bodies.

7.4 The Department where the scholar pursues his/her research shall prescribe the course(s) to him/her based on the recommendations of the Research Advisory Committee, as stipulated under sub-Clause 8.1 below, of the research scholar.

7.5 All candidates admitted to the M.Phil. and Ph.D. programmes shall be required to complete the course work prescribed by the Department during the initial one or two semesters.

*7.6 Candidates already holding M. Phil. degree and admitted to the Ph.D. programme, or those who have already completed the course work in M.Phil. and have been permitted to proceed to the Ph.D. in integrated course, **may be exempted by the Department from the Ph.D. course work.** All other candidates admitted to the Ph.D. programme shall be required to complete the Ph.D. course work prescribed by the Department.*

7.7 Grades in the course work, including research methodology

courses shall be finalized after a combined assessment by the Research Advisory Committee and the Department and the final grades shall be communicated to the Institution/College.

7.8 A M.Phil./Ph.D. scholar has to obtain a minimum of 55% of marks or its equivalent grade in the UGC 7-point scale (or an equivalent grade/CGPA in a point scale wherever grading system is followed) in the course work in order to be eligible to continue in the programme and submit the dissertation/thesis". (emphasis supplied)

20. Clause 9 of the regulations deals with the aspect of "Evaluation and Assessment Methods, minimum standards/ credits for award of degrees etc." It, *inter alia*, provides that upon satisfactory completion of course work and obtaining the marks/ grade prescribed in clause 7.8 above, as the case may be, the M.Phil/ PhD scholar shall be required to undertake research work and produce a draft dissertation/ thesis within a reasonable time, as stipulated by the institute concerned based on these regulations.

21. What emerges from the aforesaid Regulations is that even the students who pursue the PhD programme are required to undertake course work. As to what is the nature and duration of the said course work, clause 7 of the regulation stipulates. Under clause 7.2, the course work is treated as pre-requisite for M. Phil/ PhD preparation. The subject of the said courses is "*research methodology which could cover areas such as quantitative methods, computer applications, research ethics and review of published research in the relevant field, training, field work etc.*" Other courses are advanced level course preparing the students for M. Phil/PhD degree. Regulation 7.5 stipulates that all candidates admitted to M. Phil/ PhD programme shall be required to complete the course work prescribed by the

department during the “*initial one or two semesters*”. This indicates that the course work is of one semester duration, which may be completed during the initial one or two semesters. If it were a course for a period more than one semester, obviously, the same could not be completed during the initial one semester. Since course work is prescribed as essential – both for M. Phil/ PhD programmes, and students who have completed their M. Phil degree are also eligible to be admitted to the PhD programme, Clause 7.6 exempts such PhD students (who have pursued their M. Phil degree) from undergoing the course work. Thus, it is not essential that every PhD student would necessarily have to undertake the course work and he/ she may be exempted from undertaking the same, if the course work has already been undertaken while pursuing the M. Phil degree programme.

22. Pertinently, the subject of the course work primarily equips the M.Phil/ PhD students to undertake the M. Phil/ PhD programme in a methodical manner. The course work, by itself, need not necessarily be relevant to the subject in which the student may pursue the M. Phil/ PhD programme, since the same may relate to research methodology covering areas such as quantitative methods, computer applications, research ethics and review of published research in the relevant field, training, field work etc.

23. In the aforesaid light, what emerges is that the course work that the PhD students may have to pursue (and he may be exempted from pursuing the same if he has undertaken the course work as a M. Phil student) would, firstly, be of a duration of one semester, which may be completed in one or two of the initial semesters, and quite often it may not even relate to the

subject on which the student may pursue a PhD degree programme. Thus, in our view, the course that the PhD students are required to pursue cannot be classified as “*a full time course, the duration being at least one year*”. A PhD student is not a regular, full time student of the college/ university. There does not appear to be prescription of minimum attendance in respect of the course that the PhD students may require to undertake as a pre-requisite for M.Phil/ PhD programme. The course appears to be of only one semester duration, and is a preparatory but essential step to undertake the PhD programme, and nothing more.

24. Mr. Rupal has pointed out that a student of Ph.D. in Delhi University could well be faculty members of the same University. In this regard, he submits that in respect of PhD students of Delhi University, it is provided that:

“1. Every student shall pursue coursework and full-time research for not less than two calendar years from the date of registration. Employed students must obtain study leave for a period of two years to fulfill the residency requirement of the University. The clause shall be relaxable for faculty members of the University of Delhi provided their work in the department or college is related to their proposed research work during Ph.D. as recommended by the respective DRC and BRS”.

25. The implication of permitting such Ph.D. students to become members of and to participate in elections of DUSU would mean that even Lecturers of Delhi University would become entitled to become members of DUSU and embroil themselves in students politics – a development most undesirable.

26. We agree with the submission of Mr. Rupal that even the constitution of DUSU shows that jumping into the fray of DUSU elections by Ph.D. students was never in contemplation. This is evident from the age bar of 25 years prescribed in Clause 12.1.(i).

27. Reliance placed by learned counsel for the appellant on *University of Kerala 2* (supra) is of no avail. In the said decision, the Supreme Court has merely extended the application of the Lyngdoh Committee recommendations to JNU - which is a research oriented University and a post-graduate University. While clarifying that the age limit could be enhanced to 30 years and the requirement of attendance laid down in the said recommendations would not apply, the Supreme Court did not rule that Ph.D. students of a University which has a far larger number of undergraduate students, should permit Ph.D. students also to enroll as members of the Student Union or participate in the students election process. The fact that the said recommendations were judicially extended to apply to JNU itself shows that *per se* they did not apply to JNU because it is a research oriented university and a post graduate university.

28. In our view, a reading of the Lyngdoh Committee recommendations and the relevant clauses of the constitution of DUSU shows that the thrust of the said recommendations and rules is to keep the students politics clean and free from undesirable influences with the participation of persons who though qualify as “students”, are well past their youth. In a post-graduate and research University, where all the students are pursuing post-graduate and research courses, all students belong to a matured class. However, to permit the PhD students of a university, which primarily has undergraduate

and postgraduate students, to intermingle with the younger/ undergraduate and post-graduate students, who are pursuing regular full time courses in colleges/ university in a more disciplined manner (by requiring their attendance to be at least 75%), in the matter of student representation would certainly vitiate the atmosphere and discipline in the university.

29. We are also of the view that the appellants are not left without any avenue to fulfill their desires and aspirations of forming their association so as to have a collective voice to be able to raise their collective issues with the University. DURA has been in existence in the past, though it may have become defunct over the years. It is open to the appellant to revive the said association and the University has already taken a stand that it would facilitate revival of the said association and the holding of its elections.

30. For all the aforesaid reasons, we find no merit in the present appeal and dismiss the same leaving the parties to bear their respective costs.

VIPIN SANGHI, J.

REKHA PALLI, J.

JULY 18, 2017

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