IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Letters Patent Appeal No.534 of 2020
Date of Decision: 28.08.2020

Panjab University and others ....Appellants

Versus

Munish Pal Singh @ Munish Verma ....Respondent

CORAM :- HON'BLE MRS. JUSTICE DAYA CHAUDHARY
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present:- Mr. Subhash Ahuja, Advocate
for the appellants.

Mr. Pankaj Jain, Advocate
for the respondent.

*****

DAYA CHAUDHARY, J.

Respondent-Munish Pal Singh @ Munish Verma was aggrieved by impugned order dated 20.12.2019, whereby, his name was ordered to be removed from the Register of Registered Graduates and resolutions dated 27.09.2015 passed by the Senate of the University accepting report of a Committee as well as resolutions dated 10.09.2017 and 26.05.2019 whereby the Senate has approved the recommendations made by the Committee. Said impugned order dated 20.12.2019 as well as resolutions dated 10.09.2017, 26.05.2019 and 27.09.2015 were challenged by the respondent by way of filing ***CWP No.5493 of 2020*** before this Court. Said petition was partly allowed and impugned order dated 20.12.2019 as well as resolution dated 26.05.2019 passed by the Senate were struck down vide judgment dated 30.07.2020.

Said judgment of learned Single Bench dated 30.07.2020 has been challenged by way of filing the present Letters Patent Appeal (here-in-

GURPREET KAUR
2020.09.10 14:38
I attest to the accuracy and
integrity of this document

after called as `the LPA') by the appellant-University.

As per case of respondent Munish Pal Singh @ Munish Verma, he was elected as a representative out of Graduate Constitutency to the Senate of the University. His name was removed from the Register of Registered Graduates vide resolution dated 27.09.2015 passed by the Senate of the University by accepting the report of the Committee as the recommendations made by the Committee were approved by the Senate. As per stand of the respondent, he was removed as he being a whistle blower had been raising certain important issues relating to working of the University and its budget. Due to that reason, he was made victim by the University. A Committee was constituted by the Vice Chancellor of the University for conducting inquiry and the findings recorded by the Inquiry Committee were approved by the Senate at his back. Learned Single Judge while accepting his claim has recorded a finding that the impugned inquiry as well as resolution were contrary to the provisions of Section 37 of the Panjab University Act, 1947 (here-in-after called as `the Act, 1947'). It was also held by the learned Single Bench that the requirement was of 2/3rd members of the Senate but it was not passed by the 2/3rd members of the Senate.

Learned counsel for the appellant-University has challenged the judgment of learned Single Judge by raising various grounds. Learned counsel for the appellant submits that the punishment of removal of name of respondent from the Register of Registered Graduates has been set aside only on technical grounds and in case, there is non-compliance of Section 37 of the Act, 1947, learned Single Judge should have remitted the case to the Senate for fresh decision. Learned counsel also submits that the

GURPREET KAUR
2020.09.10 14:38
I attest to the accuracy and
integrity of this document

judgment of learned Single Judge is self contradictory and the findings have been recorded without taking into consideration the written statement filed by the appellant-University. Even no replication was filed by respondent to the written statement filed by the appellant-University. Learned counsel also submits that while allowing the writ petition filed by the respondent, the affidavit dated 01.07.2020 filed by the appellant-University was also not taken into consideration. Learned counsel further submits that neither any demand was there on the part of the respondent nor by the Senators/Members for putting the matter for voting. It was a unanimous decision of all the members of the Senate who attended the meeting dated 26.05.2019.

Mr. Pankaj Jain, learned counsel for the respondent submits that the order passed by the learned Single Judge is self speaking and a detailed findings have been given while discussing the scope of Section 37 of the Act, 1947. It was a case of mandatory requirement of 2/3rd of the total members of the Senate. Mr. Jain further submits that earlier also the matter was referred to the Committee but the final report was not signed by any member of the Committee. The report of the 1st Committee was accepted by the Senate on 27.09.2015. After accepting the report submitted by the 1st Committee, another committee was constituted vide Resolution dated 27.09.2015. The 2nd Committee, without issuing any notice to the respondent, relied upon the 1st Committee report. No independent mind was applied by the members of the 2nd Committee. Mr. Jain further submits that thereafter, the 3rd Committee was constituted by the Vice Chancellor of the University and without issuing any notice to the respondent, the report submitted by the 2nd Committed was relied upon. Thereafter, the respondent

GURPREET KAUR
2020.09.10 14:38
I attest to the accuracy and
integrity of this document

was removed without following the provisions of Section 37 of the Act, 1947. It was also recommended to register the FIR against the respondent. As per recommendation made by the 3rd Committee, two alternatives were given; firstly, the decision be taken by 2/3rd majority of the members present and secondly, in case, the decision and communication thereof be sent by the Registrar through e-mail to all the members of the Senate by giving time of three days. In case, there was no response within a period of three days, then it would be presumed that they were agreeing with the decision. The Senate approved the recommendations of the 3rd Committee in the meeting held on 26.05.2019. At the end, Mr. Jain submits that neither any consent was given by 2/3rd members of the Senate nor any opportunity was given to the respondent. All these factors were taken into consideration while partly allowing the writ petiton filed by the respondent.

Heard the arguments of learned counsel for the appellant as well as learned counsel for the respondent. We have also perused the impugned judgment passed by learned Single Judge.

Facts of the case are not in dispute. Undisputedly, the appellant-University is goverened by the Panjab University Act, 1947. As per Section 11 of the Act, 1947, the Senate has all powers of superintendence over the affairs of the University. Section 31(2)(c) prescribes the procedure to be followed for calling of the meeting of the Senate, Syndicate, Faculties and quoram of the members for the purpose of any transaction of business. Section 37 of the Act, 1947 relates to the provision for removal of Registered Graduates, which is reproduced as under :-

"37. Removal of Registered Graduates

GURPREET KAUR
2020.09.10 14:38
I attest to the accuracy and
integrity of this document

> The Chancellor, with the concurrence of not less than two thirds of the members of the Senate, shall have power to remove the name of any person from the register of Registered Graduates."

On perusal of provisions of Section 37 of the Act, 1947, it is clear that the Chancellor is competent to remove the name of any person from the register of Registered Graduates but with the concurrence of members of the Senate but not less than two third.

Admittedly, there was no concurrence before removal of respondent of two third of the total members of the Senate. A detailed finding has been given by learned Single Judge by defining the meaning of "concurrence" after taking into consideration the dictionary meaning as assigned in ***"the Law Lexicon"***, where the meaning of `concur' has been explained. The relevant findings recorded by learned Single Judge are reproduced as under :-

> " Then, it is no where defined in the Act itself as to the actual meaning of the concurrence, however, dictionary meaning as assigned in **"the Law Lexicon"** defines the word concur, **to agree, coincide, express aggreivement in opinion,** (as the concurring judgment). Reverting back to the arguments that have sought to be raised on behalf of the petitioner by his counsel Mr. Jain, who has sought to rely heavily on the true descriptions of the meeting of the Senate dated 26.05.2019 in respect of Item No. C-32 Annexure P-14 shows that the remark against this it was resolved that Appendix III be approved, which pertains to examining the matter in its entirety and to determine the nature of action to be taken against the petitioner under the provisions of regulations of Panjab University **so as to resist his membership to Senate in future from which it is reflective that the sole aim and**

GURPREET KAUR
2020.09.10 14:38
I attest to the accuracy and
integrity of this document

purpose of this process emancipating into this for which item is nothing but a sinister design woven by the authorities to attain a target and ensuring that action against petitioner Shri Munish Pal Singh @ Munish Verma is of such nature so as to resist his election to Senate in future and, therefore, leaves a lurking suspicion in the mind of the Court that the earlier stand of the petitioner, which is never satisfactorily refuted in the pleadings of the respondents that he was an uncomfortable senator who often questioned the authorities keeping in view large interest of the University and it was on his own stand an inquiry had been initiated by the chancellor of the University (Vice President of India) and which is still pending. Therefore, is nothing but a device brought about with this sole purpose. A specific query was raised by the Court to the counsel for the respondents over the transcriptions prepared by the petitioner from the DVD obtained by the petitioner under RTI Act, this Court has examined each and every conversation reflected (Annexure P-16) therein of dialogue which took place during the meeting between various persons sitting therein including the Vice Chancellor. Shri Subhash Ahuja, learned counsel for the respondents could by no means pin point how there has been due taking up and discussions on this Item No. C-32 and rather what ensues of this unrebutted document is that the authorities were in undue haste to accomplish their designs to ensure that the petitioner is thrown out of the Senate by all ways and means. What one can concur is that the respondent authorities perturbed over the conduct of the petitioner are trying to curb freedom of speech and expression guaranteed under Article 19 to the petitioner. Even in Annexure P-16 is reflective how the Vice Chancellor is trying to curtail the members individually in participating at this meeting and, therefore, there is

GURPREET KAUR
2020.09.10 14:38
I attest to the accuracy and
integrity of this document

adverse affect on the decision making of the meeting and very much erodes the sanctity of the word **"concurrence"** in Section 37 of the Act and, thus, making it an empty formality. The purpose of adding the word "**concurrence"** under Section 31 of the Act was with the defined purpose to ensure that each and every member in the Senate has a right to express his opinion and give consent to the agenda, which has been taken up to arrive at a consensus since the present agenda was of much vital importance for which 2/3rd members of the Senate were supposed to have power to remove the names of the persons and what is reflected from the proceedings of this meeting regarding Agenda No. 32 shows that admittedly there were total 91 members and 2/3rd of the same comes to 61 when this documents shows that only 38 members were present and, therefore, the quoram of this meeting had fallen short of the required strength and in the absence of quoram no decision taken at such a meeting could validify such a resolution of the Senate. Further, the dialogue attributed to the Vice Chancellor to the query posed by professor Chaman is illustrative of how the questions posed by the member of the Senate were turned down on account of obviously the power wielded by the Vice Chancellor in the Senate and, therefore, in view of what has been detailed and discussed above, the order dated 20.09.2019 Annexure P-15, whereby, the respondents have removed the name of the petitioner from the register of the Registered Graduates is certainly illegal and inoperative order which does not bind removal and consequently resolution dated 26.05.2019 (Annexure P-14) is also held to be inoperative, illegal and not binding being an outcome of irregular and illegal proceedings by the respondents and thus are struck down. The petitioner has been unable to establish on the records by what means he is entitled to seek quashment of resolution dated 27.09.2019 (Annexure P-10) and

GURPREET KAUR
2020.09.10 14:38
I attest to the accuracy and
integrity of this document

resolution dated 10.09.2017/24.09.2017 (Annexure P-12) passed by the Senate and needs to be struck down. The same as such are upheld."

From the findings recorded by learned Single Judge, it is apparent that the provisions of Section 37 of the Act, 1947 have not been followed and there was no majority of the 2/3rd of the members of the Senate. There were total 91 members and 2/3rd of the same comes to 61 members. Only 38 members were present which shows that the quorum in the meeting was not complete. Nothing has been pointed out by learned counsel for the appellant as to what was the response of other members whose concurrence was taken.

Accordingly, by considering the findings recorded by learned Single Judge and the reasons mentioned therein, we are not convinced with the arguments raised by learned counsel for the appellant and the present appeal, being devoid of any merit, is hereby dismissed.

(DAYA CHAUDHARY)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

28.08.2020
gurpreet

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No

GURPREET KAUR
2020.09.10 14:38
I attest to the accuracy and
integrity of this document