

10.08.2021
SL No. 4
Court No. 24
(P.M.)

WPA 12511 of 2021

Prof. (Dr.) Sruti Bandopadhyay
Vs
Visva-Bharati & Ors.
(Via Video Conference)

Mr. Arunava Ghosh,
Mr. Puspall Chakraborty,
Ms. Amrita Panja Maulick,
Ms. Prisanka Ganguly
... for the petitioner

Mr. Victor Chatterjee
... for Visva-Bharati

The Court, in an earlier writ petition filed by the petitioner, by order dated 15th July, 2021 in WPA 9337 of 2021 disposed of the writ petition by directing the Karma Samity (Executive Council) Visva Bharati to consider the application made by the petitioner for leave, in accordance with law, after giving the petitioner a reasonable opportunity of being heard within a period of four weeks from the date of communication of a copy of this order.

A communication dated 3rd August, 2021 was made to the petitioner by the Registrar (Acting) Visva Bharati with the subject 'personal hearing'. The petitioner was intimated that the Vice Chancellor and the Chairperson of the Executive Council, Visva Bharati has nominated a former Judge of the High Court, Allahabad, who is also a member of the Executive Council for taking personal hearing in

compliance of the order passed by this Court on 15th July, 2021 in WPA 9337 of 2021. The petitioner was requested to attend the hearing on virtual mode.

As the Court by order dated 15th July, 2021 directed the Karma Samiti of the University to consider the application of the petitioner and the communication dated 3rd August, 2021, according to the petitioner, was not in accordance with the order of the Court, the petitioner filed the present writ petition. A copy of the writ petition was served upon the University.

After service of the copy of the writ petition the Registrar (Acting) Visva Bharati by a further communication dated 9th August, 2021 intimated the learned advocate for the petitioner with regard to the hearing scheduled to be held on 10th August, 2021 that the Executive Council has not taken any decision as yet. It was also intimated that the Vice Chancellor has also not taken any decision. It was mentioned that as authorized by the Vice Chancellor and the Chairperson, Executive Council, one of the E.C. members will take the hearing and place the report before the Executive Council for decision.

It was mentioned that the Executive Council has not been meeting physically for more than a year due to Covid-19 pandemic / travel restriction and the learned advocate was requested to advice his client accordingly.

The petitioner relies upon the provisions of the Visva Bharati Act, 1951. Section 13 of the Statute of the

University has been relied upon. It deals with Karma Samiti (Executive Council). 13(1) mentions about the members of the Council. 13(5) mentions that six members of the Executive Council, out of whom at least two members who are not employees of the University, shall form the quorum for a meeting of the Karma Samiti.

The Court by order dated 15th July, 2021 directed the Karma Samiti of the University to take a decision in the matter. The petitioner contends that according to the provisions of the Statute it is the Karma Samiti alone which can take a decision and a single member of the Executive Council or the Vice Chancellor and the Chairperson of the Executive Council does not have the jurisdiction to authorize any one of the Executive Council members to take the hearing.

The powers and duties of the Vice Chancellor enumerated in Section 3A of the Statute has been relied upon. It mentions that the Vice Chancellor shall be an ex-officio member and Chairman of the Executive Council. It is the duty of the Vice Chancellor to see that the Act, Statute, the Ordinance and Regulations are duly observed. He also has the power for convening meeting of the Executive Council.

It has been submitted that the Vice Chancellor does not have the power to authorize any one member of the executive council to take a decision with regard to the prayer of the petitioner.

The learned advocate representing Visva Bharati does not have any instruction in the matter. It has however been submitted that in view of the pandemic situation any one of the members of the Executive Council may be permitted to conduct the hearing and formal decision will be taken by the members of the Executive Council.

As it appears that the Court by order dated 15th July, 2021 directed the Executive Council of the University to take a decision in the matter and the order of the Court has duly been acted upon by the University, accordingly, the University is directed to act strictly in accordance with the order passed by the Court and in conformity with the Statute. Moreover the Statute of the University clearly provides that the Executive Council can take a decision with regard to such type of matters.

The Karma Samiti of the University as mentioned in the Statute is directed to consider the case of the petitioner strictly in accordance with law. The consideration may however be made in the virtual or hybrid mode, but the quorum of the meeting as mentioned in the Statute shall be followed mandatorily.

With the aforesaid observation the writ petition stands disposed of.

Supplementary affidavit filed by the petitioner in Court today is taken on record.

Urgent photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities.

(Amrita Sinha, J.)