

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**Judgment Reserved on 07.09.2022
Date of Decision: September 30, 2022**

Civil Writ Petition No.14500 of 2022

D.M. College Managing Committee and another

...Petitioners

Versus

Panjab University and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Sumeet Mahajan, Senior Advocate with
Mr. Saksham Mahajan, Advocate and
Ms. Rabani Attri, Advocate, for the petitioners.

Mr. Indresh Goel, Advocate, for respondents No.1 to 3.

Mr. Sameer Sachdeva, Advocate, for respondents No.4 to 6.

SUDHIR MITTAL, J.

D.M. College Managing Committee-petitioner No.1 (hereinafter referred to as the Managing Committee) is a Society registered under the Societies Registration Act, 1860 as amended by the Punjab Amendment Act, 1957. It was registered as such on 30.09.1970. It manages five educational institutions i.e. two colleges and three schools. The General House of the aforementioned Society adopted Rules and Regulations in a meeting held on 04.10.1980. A copy of the said Rules entitled 'Revised Rules and Regulations of the D.M. College Managing Committee, Moga (Punjab)' (hereinafter referred to as the Rules) is on record as Annexure-P-2. It comprises of 15 Members all of whom are life Members. The Rules provide for election of 07 office-bearers elected for a maximum period of three years. If elections are not held within the stipulated three years, Arya

Pratinidhi Sabha, Punjab (hereinafter referred to as the Sabha) being the 'Supreme Body' has the right to nominate office-bearers for three months and direct holding of elections within the next three months. In case of occurrence of a vacancy on account of death or resignation or removal, the same is to be filled by the Managing Committee within one month. The office-bearers plus one Member form the Executive Committee which has the responsibility of discharging day to day functions. The office-bearers were elected in elections held on 10.04.2017 and the term expired on 09.04.2020. Respondent No.5 was elected as President in the said election whereas petitioner No.2 was elected as Vice-President. Allegedly, the term of the office-bearers was extended by one year vide communication dated 13.09.2021. Vide notice dated 07.01.2022, signed by petitioner No.2 as Vice-President of the Managing Committee, a General House meeting was called on 17.01.2022 *inter alia* for election of office-bearers. Vide communication dated 13.01.2022 signed by respondent No.5 as President of Managing Committee, the said meeting was postponed indefinitely. Yet, a meeting of the General House was held on 17.01.2022 under the Chairmanship of petitioner No.2. Petitioner No.2 was unanimously elected as President and was further empowered to appoint the remaining office-bearers. In exercise of the said powers, petitioner No.2 appointed the other office-bearers on 17.01.2022 itself. An e-mail dated 31.01.2022 was sent to the Vice-Chancellor of Panjab University-respondent No.1 (hereinafter referred to as the University) by one Dr. Jagwant Singh (Fellow) calling for intervention in the interests of students and staff of the two colleges being administered by the Managing Committee. It referred to election of President on 17.01.222 whereafter the President conveyed to the Bank that the accounts will be operated by him

alone. This allegedly resulted in a stalemate affecting the interests of the students and staff of the colleges. Based upon this input, Deputy Registrar (Colleges) of the University-respondent No.3 sent a communication dated 29.04.2022 to petitioner No.2 for personal hearing with reference to the aforementioned complaint dated 31.01.2022. This hearing was adjourned to 17.05.2022. Meanwhile, on 11.05.2022, a parallel Managing Committee had been constituted by respondent No.5 acting as President of the Sabha with himself as the President. Accordingly, a civil suit was filed on 18.05.2022 seeking a declaration that the election communicated vide letter dated 11.05.2022 was null and void. The University thereafter passed order dated 29.06.2022 on the basis of recommendations of a Committee constituted by it, recognizing the Managing Committee under the Presidentship of respondent No.5 as the lawful Managing Committee and appointing representatives on the same in exercise of powers granted by Regulation 11.2, Chapter VIII (A) of Panjab University Calendar Volume-I of 2007. This order is under challenge in the writ petition.

2. A short reply has been filed on behalf of respondents No.4 to 6. It has been averred that the writ petition is not maintainable as disputed questions of fact are involved and a civil suit filed by the petitioners is pending. It has also been stated that the writ petition is not maintainable even on the ground of locus standi as the election dated 17.01.2022 is illegal and election of petitioner No.2 as President is invalid. The appointment of office-bearers by him is also illegal. Petitioner No.2 has been stated to be a usurper of office and the filing of the writ petition is stated to be misconceived.

3. The University has filed a separate written statement. It has supported the order dated 29.06.2022 on the ground that relevant Rules and

Regulations confer powers upon it. According to the University, being the affiliating body, it is entitled to appoint representatives on the Managing Committee of the affiliated colleges. The Sabha has the right to appoint the Managing Committee. In this regard, reliance has been placed upon Rule 9 of the Rules. Documents pertaining to the land of the two colleges being administered by the Managing Committee have also been taken into consideration, according to which, the Sabha is the owner of the college sites.

4. At this point in time, it may be observed that a dispute had earlier arisen between petitioner No.1 and the Sabha for resolution of which a civil suit was instituted on 24.07.1996. In the suit, declaration was sought that orders passed by the Sabha dissolving the Managing Committee and taking over its functioning were illegal. The suit was decreed vide judgment and decree dated 09.03.2011. Declaration sought was granted and the Sabha was restrained from taking over the educational institutions. An appeal against this judgment and decree is pending adjudication.

5. Learned Senior Counsel for the petitioners has argued that under Regulation 11.2 (supra), the University cannot adjudicate on the legality or validity of the Managing Committee. The present case is not a case of mal-administration and only in such a case the said Regulation can be invoked. Thus, the impugned order is without jurisdiction and deserves to be set aside. The said order is also contrary to the decree dated 09.03.2011 as it permits the Sabha to interfere in the functioning of petitioner No.1. The decree specifically restrains the Sabha from interfering in the functioning of the Managing Committee and respondent No.5 as President of the Sabha has constituted a parallel Managing Committee in alleged exercise of powers under Rule 9 of the Rules which is illegal.

6. Learned counsel representing respondents No.4 to 6 has submitted that the Sabha exercises control over the Managing Committee. It is the Supreme Body and has the authority to appoint office-bearers. Reference has been made to Rule 4(b), Rule 5(b) and Rule 6 (b) of the Rules. It has been next argued that challenge to order dated 29.06.222 is not maintainable in the absence of challenge to order dated 11.05.2022 as the basis of passing of order dated 29.06.2022 is the said order. The writ petition is stated to be not maintainable as order dated 11.05.222 is under challenge in a pending civil suit.

7. Learned counsel for the University has submitted that upon receipt of complaint from Dr. Jagwant Singh, a Committee was constituted by the Vice-Chancellor which recommended appointment of nominees on the Managing Committee in exercise of powers under Regulation 11.2. The said Regulation authorizes the University to appoint nominees and thus, impugned order cannot be said to be illegal. Further, disputed questions of fact are involved in the writ petition and it deserves to be dismissed on this short ground alone.

8. From the above narration, it is evident that a dispute has arisen regarding who constitutes the actual Managing Committee. Petitioner No.1 under the Presidentship of petitioner No.2 claims itself to be the actual Managing Committee whereas respondent No.6 under the Presidentship of respondent No.5 has set up its own claim. For settlement of this dispute, interpretation of the Rules would be essential. Such interpretation would also enable a decision on the issue of validity of meeting and elections held on 17.01.2022 in contra-distinction to order dated 11.05.2022. A civil suit has already been filed challenging the legality and validity of the order dated

11.05.2022 and the Civil Court is seized of the issue. I do not intend to pre-empt the exercise. Accordingly, I refrain from deciding the claim of either side to constitute the Managing Committee.

9. However, one cannot lose sight of the fact that petitioner No.1 claims itself to be the validly constituted Managing Committee. As against this claim, the University has passed order dated 29.06.2022 negating the same and appointing nominees in exercise of powers under Regulation 11.2. This order has furnished a cause of action to the petitioners to challenge it. Thus, it cannot be said that the writ petition is not maintainable. Legality and validity of order dated 29.06.2022 can be examined in the light of Regulation 11.2 relied upon by the University. I thus, confine myself to the same.

10. Regulation 11.2 is reproduced below for ready reference:

“11.2. If after enquiry it is found that an affiliated college under private management is not being properly administered the Syndicate may authorize the Vice-Chancellor to appoint a representative or representatives of the University on the Managing body of the College for such period as may be prescribed by the Syndicate. If a representative/s of the University appoint on the Managing Committee of an affiliated college is/are not invited to the meeting/s of the Managing Committee, the proceedings of the meeting/s shall be regarded as invalid. T.A. and D.A. of the University representatives/s will be paid by the college concerned.”

11. For exercise of authority under the aforementioned Regulation, the following is essential: (a) there should be an affiliated private college, (b) there must be a finding that the said college is not being properly

administered, (c) authority must be given to the Vice-Chancellor by the Syndicate & (d) period for which the representatives are appointed must be prescribed by the Syndicate.

12. Do the aforementioned ingredients exist in this case?

13. A perusal of the written statement filed on behalf of the University shows that Minutes of the meeting of the Committee constituted by the competent authority for enquiring into the issue of mis-management are not on record nor any reference has been made to them. There is also no finding that the private affiliated college is not being properly administered. Such a finding is a pre-condition to the exercise of powers under the aforementioned Regulation and thus, it has to be held that exercise of power under Regulation 11.2 was uncalled for. Further, the said Regulation is confined to appointment of representatives only so that proper management may be ensured. It does not give any authority to the University to adjudicate upon claims of rival factions to constitute the Managing Committee. Thus, order passed in purported exercise of powers conferred by the said Regulation cannot be sustained in law.

14. The writ petition is accordingly allowed. Impugned order dated 29.06.2022 (Annexure P-17) is quashed.

15. Pending miscellaneous application, if any, stands disposed of.

September 30, 2022

'Ankur Goyal'

(SUDHIR MITTAL)
JUDGE

Whether speaking/reasoned

Yes

Whether Reportable

Yes