

14.12.2023
Sl. No. 13.
Suman
Ct.No.238.

WPA 20368 of 2023

Dr. Amal Kumar Bhunia
Vs.
The State of West Bengal and Ors.

Mr. Souvik Nady
Mr. Susanta Kumar Gangopadhyay
Mr. Arun Kumar Chakraborty
Ms. Subhasree Banerjee
..for the petitioner

Mr. Joydip Kar, Sr. Adv.
Ms. Debjani Sengupta
Ms. Koyel Bag
Mr. Abhijit Chatterjee
..for the Vidyasagar University

The writ petitioner challenges a resolution of the Executive Council of Vidyasagar University (in short, the University) dated July 27, 2023 whereby the said Council, inter alia, resolved as follows:-

- "(a) *A 3-Member Committee be constituted to enquire into investigate all the allegations/complaints/received by the University from different corners, from different persons/associations regarding Dr. Amal Kumar Bhunia, Deputy Registrar (Administration), Dr. J. K. Nandi, Registrar and to submit a detailed report after giving an opportunity of hearing to the various complainants and stake-holders of the Vidyasagar University;*
- (b) *Regarding nomination of members to the 3-Member Committee, the matter be left*

to the Hon'ble Vice-Chancellor for necessary action;

- (c) *Dr. Amal Kumar Bhunia, Deputy Registrar (Administration) of this University will proceed for leave with pay for a period of three (03) months or until further orders whichever is earlier from the date of receipt of this letter due to treatment of his illness as stated by him in various communications;*

Dr. Amal Kumar Bhunia, Deputy Registrar (Administration) of this University is hereby released from services of the Vidyasagar University for a period of three (03) months or until further orders whichever is earlier with effect from the date of receipt of this letter and is requested to hand over the charge, keys, documents, office file etc. to Shri Arindam Bhattacharya, Development Officer and to Dr. Soudeep Kumar Sau, Special Officer in presence of the Executive Director of Computer Centre, Vidyasagar University, Deputy Registrar (Academic) of Vidyasagar University and all staff members engaged in the office of the Deputy Registrar (Administration) before release."

The petitioner is presently holding a position of Deputy Registrar (Administration) of the University. The only ground based on which the challenge is thrown is that the meeting held on July 27, 2023 was in violation of Regulation 3 of the West Bengal State Universities (Terms and conditions of Service of the Vice Chancellor & the Manner and Procedure of Official Communication) Rules, 2019.

The petitioner contends that without prior permission of the State the person in charge of the Vice Chancellor could not hold the meeting on July 27,

2023. Therefore, the aforesaid resolution of the Executive Committee should be quashed.

Mr. Jaydip Kar, learned senior counsel appearing on behalf of the University contended that the aforesaid regulation 3 of Rule 2019 is inconsistent with the Vidyasagar University Act, 1981 and does not apply in the facts of this case. Mr. Kar has argued the Vidyasagar University Act, 1981, in particular, Section 9 sub-Section (5)(b) and Section 10 (2) do not make any distinction between a regular Vice Chancellor and the person in charge of the office of Vice Chancellor. Therefore, the impugned resolution cannot be said to be without jurisdiction.

In support of his submission Mr. Kar has relied upon the following judgments:-

- (1) Indian Express Newspapers (Bombay) Private Ltd. versus Union of India. reported in (1985) 1 Supreme Court Cases 641**
- (2) Indian Ex-Servicemen Movement vs. Union of India reported in (2022) 7 Supreme Court Cases 323.**

Mr. Souvik Nandy, learned advocate appearing on behalf of the petitioner, on the other hand,

contends that the University being an authority under the State cannot challenge a regulation framed by the State in exercise of power conferred under Section 17 of the West Bengal Universities and Colleges (Administration) Regulation Act, 2017. The University is bound by any directives from the State.

I am not inclined to interfere with the impugned resolution adopted by the University.

Regulation 3 of the West Bengal State Universities (Terms and conditions of Service of the Vice Chancellor & the Manner and Procedure of Official Communication) Rules, 2019 is quoted below:-

"3. Office of the Vice Chancellor/Pro-Vice Chancellor:-

- (1) The Office of the Vice Chancellor shall be deemed to be a Public Office and shall remain open on all week days, except holidays.*
- (2) The Vice Chancellor may, in his discretion keep open his office on any holiday if he considers that an urgent business in relation to the University is required to be done.*
- (3) All employees of the University shall assist to the Vice Chancellor and the Pro-Vice Chancellor in performing all his works and duties as prescribed under the Act as and when the Vice Chancellor and the Pro-Vice Chancellor so requires.*
- (4) During the absence of Vice Chancellor from his Office, either by reasons of leave, illness or otherwise, the charge of the Office of the Vice Chancellor shall be given to a Pro-Vice Chancellor, and if not available, the charge shall be given to another Vice Chancellor or Pro-Vice*

Chancellor of a nearby State-aided University with the approval of the State Government. If they are not available, the charge shall be given to the senior most Dean of the University, and if he is not available, to the senior most Professor of the University, with the intimation to the Department.

- (5) The person holding charge of the Office of the Vice Chancellor shall only discharge to do the routine functions of the University but shall not hold any meeting of the Senate/Court/Governing Board or the Syndicate/Executive Council of the University without prior permission of the State Government.*
- (6) All decisions taken by the person holding the charge of the Office of the Vice Chancellor under sub-rule (4), shall require ratification by the Vice Chancellor, failing which such decision shall cease to have effect.*
- (7) During absence of the Pro-Vice Chancellor from his Office either by reasons of leave, illness or otherwise, the Vice Chancellor shall hand over charge of the Office of the Pro-Vice Chancellor to the senior most Dean of the University, and if he is not available, to the senior most Professor of the University, with an intimation to the Department."*

The plain reading of Rules 5 and 6 of the said resolution, in my view, makes it clear that a resolution adopted in any meeting of the Senate/Court/Governing Board or the Syndicate/Executive Council of the University without prior permission of the State Government is not inherently illegal or irregular. Clause 6 of the said Rules, 2019 makes it clear

that a decision taken by the person in charge of the Office of the Vice Chancellor under sub-Rule (4) requires ratification by the Vice Chancellor, failing which such decision shall cease to have effect.

Therefore, the requirement of sub-Section 5 cannot be said to be mandatory in nature.

The resolution adopted by the Executive Council of the University in the present case is subject to approval of the State Government under Regulation 5 as well as ratification under Regulation 6 of the Rules, 2019. Any subsequent permission from the State shall also meet the requirement of Regulation 5.

Having regard to the seriousness of the allegation made against the petitioner, I am not inclined to stay the hand of the University from proceeding with the inquiry against the petitioner. It is an admitted position that during pendency of the writ petition the leave period has already been spent and the petitioner rejoined the University.

In view of the above matter, I am not inclined to interfere with the impugned resolution at this stage.

It is an admitted position that till date no regular Vice Chancellor has been appointed in the University. I only clarify that the resolution adopted on July 27, 2023 and the following actions shall be subject to the approval of the State and the ratification by the Vice Chancellor.

With the above observation, WPA 20368 of 2023 is disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Kausik Chanda, J.)