



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Writ Petition No.4268 of 2023

Dr. Omprakash Babanrao Munde

... Petitioner

Versus

The Vice Chancellor,

Sant Gadge Baba Amravati University,

Amravati and others

... Respondents

Shri U.J. Deshpande, Counsel for Petitioner.

Ms Gauri Venkatraman, Counsel for Respondent No.1.

Ms Shreeya S. Ketkar, Counsel for Respondent No.2.

CORAM : A.S. CHANDURKAR & MRS. VRUSHALI V. JOSHI, JJ.

Date when arguments were heard : 18th August, 2023.

Date when the order was pronounced : 21th August, 2023.

P. C. :

Heard.

2. In the first meeting of the Board of Studies at the Sant Gadge Baba Amravati University, appointment of Chairman at various faculties was proposed to be held. The petitioner filed his nomination for the post of Chairperson of the Board of Studies in Geography in the faculty of Humanities. The respondent No.3 raised an objection to the eligibility of the petitioner on the ground that there was no Post-Graduate Department at the College where the petitioner was teaching nor was there any Research Centre at the said College. The working Chairman considered the said objection and rejected the same on 2-6-2023. The petitioner accordingly being the only

candidate at the said election was declared elected as Chairman of the Board of Studies in the subject of Geography. It appears that the respondent No.3 approached the Vice Chancellor of the University raising an objection to the eligibility of the petitioner to hold the post of Chairman of the Board of Studies. The petitioner was noticed in the matter and after hearing him, the Vice Chancellor on 20-6-2023 has held the petitioner not to be eligible to hold the post of Chairman of the Board of Studies on the ground that there was no Post-Graduate Department at Narayanrao Raja Senior College, Badnera nor was there any Research Centre attached to the said College. Being aggrieved, the petitioner has challenged the order dated 20-6-2023 in the present writ petition.

3. *Inter alia*, Shri U.J. Deshpande, learned counsel for the petitioner, submits that the Vice Chancellor had no jurisdiction to entertain the grievance raised by the respondent No.3 as to eligibility of the petitioner to hold the post of Chairman of the Board of Studies. Referring to the provisions of Section 140 of the Maharashtra Public Universities Act, 2016 (for short, 'the Act of 2016'), it was submitted that it is only the Hon'ble Chancellor who has the jurisdiction to decide any question with regard to eligibility/entitlement of any person to hold such office. Referring to Clause 17 of the Uniform Statute No.1 of 2017, it was submitted that appeal under Clause 17(2) could be preferred only by an aggrieved party who had contested the election but was not elected. Since the respondent No.3 did not

submit his nomination form for contesting the election of Chairman of the Board of Studies, he had no locus to challenge the election of the petitioner. Reliance was placed on the decision of the Hon'ble Supreme Court in *Ravi Yashwant Bhoir Versus District Collector, Raigad and another* [(2012) 4 SCC 407] in that regard. Besides aforesaid, it was also sought to be demonstrated that the petitioner was in fact eligible to hold the post of Chairman of the Board of Studies in view of Section 40(2)(c) of the Act of 2016.

4. Ms Gauri Venkatraman, learned counsel for the respondent No.1-University on the other hand submitted that the grievance raised by the respondent No.3 was rightly considered by the Vice Chancellor under Clause 17(2) of the Uniform Statute No.1 of 2017. It was submitted that in view of Section 104 of the Act of 2016, remedy to approach the Hon'ble Chancellor in this regard was available. In addition, it was submitted that the Vice Chancellor rightly held the petitioner not eligible to hold the post of Chairman of the Board of Studies. Reference was made to Section 40(2)(d)(i) read with Section 2(42) of the Act of 2016. Reliance was placed on the decision in Writ Petition No.11980 of 2019 (*Dr. Shankar S/o Bhagwan Ambhore Versus Hon'ble Chancellor, Dr. Babasaheb Ambedkar Marathwada University, Aurangabad and others*) decided at the Aurangabad Bench on 14-10-2020. It was thus submitted that there was no merit in the challenge as raised.

5. We have heard the learned counsel for the parties and we have perused the documents on record. It may be noted that under Section 140 of the Act of 2016, if any question arises on the aspect as to whether a person is entitled to be a member of any authority or body of the University, the matter can be referred on a petition by any person directly affected or *suo motu* cognizance by the Vice Chancellor can be taken and reference can be made to the Hon'ble Chancellor. In the present case, the petitioner being the sole candidate for contesting the election to the post of Chairman of the Board of Studies, he was declared elected on 2-6-2023 after the objection raised by the respondent No.3 came to be rejected by the working Chairperson. It appears that thereafter the respondent No.3 approached the Vice Chancellor raising a grievance to the competence of the petitioner to the post of Chairman of the Board of Studies. After hearing the petitioner, the Vice Chancellor has held against him. The note-sheet dated 20-6-2023 indicates that the Vice Chancellor has acted as an Appellate Authority. In this regard, if Clause 17(2) of the Uniform Statute No.1 of 2017 is perused, the same indicates such appellate remedy being provided before the Vice Chancellor within a period of thirty days from declaration of the result. While the petitioner seeks to contend that such remedy is available only to a candidate who has contested such election, the University seeks to support the exercise of jurisdiction by the Vice Chancellor.

6. We find in the present facts that the provisions of Section 140 of the Act of 2016 provide an avenue to a person who is directly affected by a decision as regards his entitlement to be a member of any authority or body of the University. In such situation, he can by moving a petition before the Hon'ble Chancellor seek adjudication of such grievance. It is clear that the entitlement of the petitioner to hold the post of Chairman of the Board of Studies is in issue. The Vice Chancellor having entertained the appeal preferred by the respondent No.3 by invoking the jurisdiction in terms of Clause 17(2) of the Uniform Statute No.1 of 2017 the remedy for the petitioner would be to approach the Hon'ble Chancellor since he is directly affected by the adjudication of the Vice Chancellor to his entitlement to hold the post of Chairman. We are therefore inclined to permit the petitioner to invoke such remedy as provided by Section 140 of the Act of 2016.

7. It was urged on behalf of the petitioner that the cognizance taken by the Vice Chancellor under Clause 17(2) of the Uniform Statute No.1 of 2017 was without any legal authority. We find that even this issue could be permitted to be raised before the Hon'ble Chancellor. By virtue of the impugned order dated 20-6-2023, the petitioner is directly affected and the question with regard to his entitlement to hold the post of Chairman of the Board of Studies is directly involved. For this reason, the petitioner would be at liberty to

move an appropriate petition in terms of Section 140 of the Act of 2016 before the Hon'ble Chancellor.

8. For aforesaid reasons and by clarifying that we have not examined the entitlement or otherwise of the petitioner to hold the post of Chairman of the Board of Studies, the following order is passed :

(i) The petitioner is at liberty to approach the Hon'ble Chancellor in terms of Section 140 of the Act of 2016 for raising a grievance against the order dated 20-6-2023 passed by the Vice Chancellor holding the petitioner ineligible to hold the post of Chairman of the Board of Studies in the subject of Geography.

(ii) It is open for the petitioner to raise such challenge on all permissible grounds including the aspect of exercise of power by the Vice Chancellor while entertaining the appeal preferred by the respondent No.3. All questions in that regard are kept expressly open.

9. With aforesaid liberty, the writ petition is disposed of. The parties shall bear their own costs.

(MRS. VRUSHALI V. JOSHI, J.)

(A.S. CHANDURKAR, J.)