

2024-PHHC-069845



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

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CWP-24374-2021

Date of Decision: 14.05.2024

DR. MANOJ KUMAR

... Petitioner

VERSUS

PANJAB UNIVERSITY AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Suryaveer S. Surjewala, Advocate for
Mr. Sunil K. Nehra, Advocate for the petitioner.

Mr. Indresh Goel, Advocate for the respondents.

VINOD S. BHARDWAJ, J. (ORAL)

Challenge in the present petition is to the order dated 26.11.2021 (Annexure P-8) passed by the respondent-University to the extent that while setting aside the election of Mr. Tarun Ghai from the post of Senator, the petitioner has not been declared as an elected Senator in place of Mr. Tarun Ghai.

Learned counsel for the petitioner contends that the schedule for the election to the post of Senator for the year 2020-21 was published on the website of the Punjab University, Chandigarh. There are total eight seats of Senator for the Professors, Associate Professors and Assistant Professors of the affiliated Arts Colleges. The election for the post of Senator was held on 18.08.2021 and the result thereof was declared on 20.08.2021. The petitioner was placed at 9th position and Mr. Tarun Ghai was placed at 7th position. One Mr. Jagtar Singh was placed at 8th position. The election result was subject to



approval of the Chancellor. The petitioner came to know that Mr. Tarun Ghai was not even eligible to participate in the election for the post of Senator since he was neither a Professor nor an Associate Professor and nor even an Assistant Professor on the date of holding of the elections i.e. 18.08.2021 as he was already dismissed from service vide order dated 23.06.2021 from the college in which he was working. A representation was immediately submitted by the petitioner on 10.09.2021 to the Chancellor, Punjab University, Chandigarh.

Subsequent reminders were also sent, however, as no action was taken, CWP No.21413 of 2021 was filed. The said writ petition was disposed of by this Court vide order dated 02.11.2021 giving directions to the appropriate Authority to pass an order on the representation/complaint filed by the petitioner. Pursuant to the order dated 02.11.2021 passed by this Court, the election of Mr. Tarun Ghai as Senator was declared as void since he was not eligible for the said post.

A representation was later submitted by the petitioner that in view of the election of Tarun Ghai having been declared void, a re-counting of the votes should be done as per the legal provisions and that the petitioner is entitled to be declared as the elected Senator in place of Mr. Tarun Ghai.

Reply on behalf of the respondent-Punjab University has been filed. Relevant extract of the preliminary submission reads thus:

"3. As per the decision taken by the Vice Chancellor (Annexure P-8) Sh. Tarun Ghai, being not a teacher in any College since 23.06.2021 is not eligible to be elected or to continue as a member of the Panjab University Senate to represent this constituency and hence his election cannot be validated. The order of the Vice



Chancellor was challenged by the petitioner and another contestant Ms. Surinder Kaur in this Hon'ble High Court. The vacancy so caused, because Shri Tarun Ghai ceased to possess the requisite qualification under Section 13 (5) of Panjab University Act which is available at page 6 of Panjab University Calendar Volume-I, 2007, shall be filled by conduct of bye election.

Neither the petitioner nor Ms. Surinder Kaur (petitioner in CWP No.24584 of 2021) can be declared elected under the Constituency of Professors, Associate Professors and Assistant Professors of Affiliated Arts Colleges under the provisions contained in the Panjab University Act and the Panjab University Calendar.

4. *That as per Clause 15 of the Panjab University Calendar Volume-I, there is provision of holding bye-election in case of vacancy occurring after the election process. For ready reference, Clause 15 is reproduced below:*

"15. Other elections of ordinary fellows: Once in every year on such dates as the Chancellor may appoint in his behalf, there shall, if necessary be an election to fill any vacancy amongst the ordinary fellows elected by the categories mentioned under Clauses (b), (c), (d), (e), (f) and (h) of Sub Section (1) of Section 13."

The answering respondents have held bye-elections to the said category in the previous years as well as and when the vacancy is caused by unfortunate demise of the sitting fellow or vacancy is created on some other account. The same shall be followed in the present case subject to final orders of this Hon'ble Court in the present case."



Even though, the reply had been filed by the respondent-Punjab University in the month of January 2022, however, no replication or rejoinder has been filed controverting the said factual aspects.

I have heard the learned counsel for the respective parties and have also gone through the documents appended alongwith the present petition with their able assistance.

It is not in dispute that the University Calendar does not have any provision as per which in the event of election of a returned candidate being declared as null and void, the next candidate is entitled to be declared as a Senator/Representative of his place/constituency. To the contrary, Clause 15 of the University Calendar, Volume-I provides for a bye-election in such a situation.

The learned counsel for the parties contend that they would have no objection in case a fresh election/bye-election is held for the abovesaid constituency/the seat falling vacant. Counsel for the respondent-University further informs that the tenure of the elected Senator is going to expire on 30.09.2024 i.e. within a period of 3½ months from today and that even if the election process is initiated at this juncture, it would not serve any useful purpose since the process of election would take a period of six months to conclude.

Under the given circumstances, I do not deem it appropriate to direct the respondents to hold a fresh/bye-election for filling up the seat of Senator that has fallen vacant on account of election of Mr. Tarun Ghai being



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declared as null and void. Hence, no further directions are required to be issued in the present case.

Accordingly, the present petition is disposed of at this stage.

MAY 14, 2024
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(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*