



2024:DHC:9033



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Decided on: 21.11.2024+ **W.P.(C) 4108/2024****SUDHANSHU SHEKHAR**

.....Petitioner

Through: **Mr. Shivendra Singh, Mr. Azad
Bansala & Ms. Prakriti Rastogi,
Advocates.**

versus

**JAWAHARLAL NEHRU
UNIVERSITY AND ORS.**

.....Respondents

Through: **Mr. Vasanth Rajasekaran, Senior
Standing Counsel with Mr.
Harshvardhan Korada, Advocate
for JNU.****CORAM:****HON'BLE MR. JUSTICE PRATEEK JALAN****PRATEEK JALAN, J. (ORAL)**

1. The petitioner is a research student in respondent No. 1- Jawaharlal Nehru University ["JNU"]. He enrolled as a Ph.D. student in JNU in the year 2017, and contested in the Students' Union elections in 2017 and 2019. He has filed this writ petition with regard to elections which were scheduled in March 2024, in terms of circular issued by JNU on 07.03.2024. The petitioner's grievance is that JNU has fixed a maximum age limit of 30 years for research students to contest in the said elections. The petitioner crossed the age of 30 years on 15.10.2023. He seeks an extension of two years, on the ground that Students' Union elections were



not held in JNU since the year 2020 in the wake of the COVID-19 pandemic.

2. The petitioner first ventilated this grievance by way of an earlier writ petition [W.P.(C) 3792/2024] filed before this Court. The writ petition was disposed of on 14.03.2024, with the direction that petitioner's representation would be considered by the Vice Chancellor of JNU and decided after a personal hearing, on the same day itself.

3. The Vice Chancellor, JNU communicated her decision to the petitioner on 14.03.2024, holding that the upper age limit of 30 years had been set by the Lyngdoh Committee ["Committee"], appointed by the Ministry of Human Resource Development, Government of India, in terms of directions of the Supreme Court and orders passed by the Supreme Court on 22.09.2006 and 18.12.2011.

4. The petitioner has now assailed the said decision by way of the present writ petition. The reliefs sought are as follows:

"1. To set aside the order dated 14.03.2024 passed by the Vice Chancellor- Respondent No.3, whereby the Petitioner's representation dated 10.03.2024, requesting for an age relaxation of 2 years to contest the student union election in the Respondent No.1 University was rejected; and

2. to pass a direction to the Respondent No.1 University to relax the maximum age by 2 years to contest elections in the Respondent No.1 University, by passing a corrigendum to the circular dated 07.03.2024 or in the alternative; and/or

3. quash and set aside the circular dated 07.03.2024 issued by the Respondent No.3 to the extent where it prescribes the maximum age limit; and

4. Pass any other or further order or orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case in the interest of justice and to meet the ends of justice."

5. Although the elections in respect of which the petitioner had sought the extension of age limit was held in March 2024, Mr. Shivendra



Singh, learned counsel for the petitioner, submits that elections for the year 2024-25 will be held in March, 2025 and, if the relief sought by the petitioner is granted, he would be eligible to contest the said elections.

6. In view of this submission, I have heard Mr. Singh and Mr. Vasanth Rajasekaran, learned Standing Counsel for JNU on the merits of the petition.

7. The decision on this petition, in my view, turns on the report of the Lyngdoh Committee and the orders of the Supreme Court referred to above. The Lyngdoh Committee was constituted by the Government of India in terms of the directions of the Supreme Court, which was seized with the issue of Students' Union elections in SLP(C) 24295/2004 [*University of Kerala v. Council, Principals', Colleges, Kerala & Ors.*].

8. The Lyngdoh Committee submitted its report on 23.05.2006, which was considered by the Supreme Court on 22.09.2006. The Court accepted certain recommendations of the Committee as an interim measure. The following recommendations, extracted from the order, are relevant for the present purposes:-

“6.1.1 Universities and colleges across the country must ordinarily conduct elections for the appointment of students to student representative bodies. These elections may be conducted in the manner prescribed herein, or in a manner that conforms to the standards prescribed herein.

6.1.2 Where the atmosphere of the university campus is adverse to the conduct of peaceful, free and fair elections, the university, its constituent colleges and departments must initiate a system of student representation based on nominations, especially where elections are being held at present. It would be advisable, however, not to base such nomination system on purely academic merit, as is being practiced throughout the country.

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6.4.2 It is further recommended that elections be held on a yearly



basis and that the same should be held between 6 to 8 weeks from the date of commencement of the academic session.

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6.5 Eligibility Criteria for Candidates

6.5.1 Under graduate students between the ages of 17 and 22 may contest elections. This age range may be appropriately relaxed in the case of professional colleges, where courses often range between 4 to 5 years.

6.5.2. For Post Graduate Students the maximum age limit to legitimately contest and election would be 24 – 25 years.

6.5.3 **For research Students the maximum age limit to legitimately contest an election would be 28 years.**¹

9. Some of these directions were modified by a subsequent order dated 08.12.2011, in which the peculiar position of JNU was also considered. A notice of contempt had been issued to the Registrar of JNU on 24.10.2008, on an allegation that Students' Union elections were held in breach of the Lyngdoh Committee recommendation, which had been accepted by the Court. The elections were also stayed. The Students' Union applied for permission to hold the elections in accordance with the Lyngdoh Committee report, subject to certain modifications. The following observations in the aforesaid order are relevant for adjudication of the present case:

“This Court is confronted with two competing claims of public interest: On the one hand, the Court has to ensure purity in the election process and on the other hand, is the right to exercise the vitally important liberty of the students to choose their representative through election. This Court has held that this right to choose one's representative through an election is virtually an extension of one's fundamental right to freedom of expression (See Union of India Vs. Association of Democratic Reforms & Anr. (2002) 5 SCC 294). Thus, it partakes of the character of a fundamental right.

¹ Emphasis supplied.



We thought that such a right cannot be possibly stifled by a Court order. Thus, we are trying to strike a balance and in doing so, we have followed the concept of reasonable restrictions, which is a part of our Constitutional doctrine.

We have been told by the learned counsel appearing for the University that JNU is primarily a research oriented University. There are some students in the language courses but JNU is basically a post-graduate University. JNU being primarily a research oriented university, it has certain unique and distinct features of its own.

We have heard learned Amicus Curiae on the areas of relaxation which have been sought by the students' union and also considered the suggestions given by learned amicus.

One of the issues is for the time period of holding of elections. After considering the suggestions given by the learned amicus and learned counsel for the parties, we do not think that any variation in Lyngdoh Committee recommendation in that aspect is called for.

*The next suggestion is coming up on the question of age restriction of candidates. After considering the suggestions given by learned amicus and also after hearing learned counsel appearing for the students' bodies, we accept the suggestion given by learned amicus that for research students, the maximum age limit which can be fixed for them to legitimately contest the election could be enhanced to 30 years.*²

10. It is evident from the aforesaid orders that the Supreme Court accepted the modification sought by the JNU Students' Union, for fixing the upper age limit for research students as 30 years, instead of 28 years. JNU has relied upon these provisions in rejecting the petitioner's representation.

11. Mr. Singh submits that JNU has lost sight of the fact that elections were not held for a period of four years, thus depriving the petitioner of the opportunity to contest when he fell within the stipulated age bracket. He contends that the University has acted in violation of the stipulation to

² Emphasis supplied.



hold annual elections, but seeks to enforce strictly, the age limits laid down by the Supreme Court. Mr. Singh also submits that, in the special circumstances arising out of the COVID-19 pandemic, the JNU itself addressed communications dated 10.10.2020 and 26.05.2022 to the University Grants Commission, requesting extension of the deadline for thesis submission by research students. He also draws my attention to a circular issued by Delhi University dated 27.08.2023, by which the age limit set in the Lyngdoh Committee report for under-graduate and post-graduate students was enhanced for the elections in the year 2023-24. The enhancement was challenged in a public interest litigation before this Court, but was repelled by the Division Bench *vide* judgment dated 15.09.2023 in W.P.(C) 12139/2023 [*Harish Kumar Gautam v. University of Delhi*].

12. While considering these submissions, the limitation on the exercise of writ jurisdiction must first be borne in mind. The writ court does not sit in appeal over the decision of the administrative authority, but only scrutinises the legality of the decision on the anvil of applicable principles. The merits of a decision taken by a duly constituted administrative authority can be looked into only if the decision taken is found to be arbitrary or perverse or capricious, in the sense that no reasonable person could have reached the same conclusion. If any authority at all is required for such well settled principles, suffice it to cite the judgment of the Supreme Court in *W.B. Central School Service Commission v. Abdul Halim*,³ which held:

“31. The sweep of power under Article 226 may be wide enough to

³ (2019) 18 SCC 39.



quash unreasonable orders. If a decision is so arbitrary and capricious that no reasonable person could have ever arrived at it, the same is liable to be struck down by a writ court. If the decision cannot rationally be supported by the materials on record, the same may be regarded as perverse.

32. However, the power of the Court to examine the reasonableness of an order of the authorities does not enable the Court to look into the sufficiency of the grounds in support of a decision to examine the merits of the decision, sitting as if in appeal over the decision. The test is not what the Court considers reasonable or unreasonable but a decision which the Court thinks that no reasonable person could have taken, which has led to manifest injustice. The writ court does not interfere, because a decision is not perfect.”

13. Looked at from this perspective, I do not find any reason to interfere with the decision of JNU in the present case. The order of the Supreme Court accepting the Lyngdoh Committee report clearly stipulated an upper age limit of 28 years, later enhanced to 30 years, for research students to participate in Students’ Union elections. The Court, by its order dated 22.09.2006, directed that the recommendations “*should thereafter be followed scrupulously in holding elections to the students’ bodies in all Universities across the country*”. The order dated 08.12.2011, by which the enhancement was effected, refers to the specific case of JNU and its unique character as a post-graduate University. Considering these aspects, the Court predicated its directions upon a “*value based mechanism*”, in which the imposition of eligibility criteria was one of the aspects. It is noteworthy that the order dated 08.12.2011 was passed in the wake of a contempt notice issued to the Registrar of JNU itself. The balance struck by the Court was, in respect of the age, was to enhance the age limit for research students from 28 years, as previously fixed, to 30 years. The decision of the JNU, viewed in this context, is unexceptionable. JNU has followed the judgment of the



Supreme Court in enforcing the age limit of 30 years.

14. Mr. Singh's submissions that the age limit ought to have been enhanced, as the elections were not been held for the intervening period of four years, does not commend to me. The failure to hold elections was because of the exigency of the COVID-19 pandemic. If it was the petitioner's contention that elections should nevertheless have been held, in consonance with directions of the Supreme Court, that is the relief he should have sought at the appropriate time. To say that the order of the Supreme Court was breached by a failure to hold elections, does not give the petitioner a right to insist upon a further relaxation, by traversing the age limit set by the Supreme Court.

15. Similarly, I am also not impressed by the analogy sought to be drawn with the case of Delhi University. First, as noted above, the directions in the order of the Supreme Court dated 08.12.2011 refer specifically to the position of JNU. The order has been passed in that very context, noting that a contempt petition had been filed against the Registrar of the University for non-compliance with the orders of the Court. Further, I am also of the view that the decision of the another University cannot be regarded as conclusive or binding upon JNU. Different institutions and administrators may take varying calls on a similar issue, informed by the particular circumstances of their institution and their own judgement. The writ Court cannot enforce the decision of one university upon another, unless the decision assailed falls foul of the narrow parameters of judicial review articulated above.

16. For the reasons aforesaid, I do not consider it appropriate to exercise the writ jurisdiction of this Court, to grant the relief sought by



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the petitioner. The writ petition is therefore dismissed, but with no order as to costs.

NOVEMBER 21, 2024
'pv'/Adhiraj/

PRATEEK JALAN, J