

Sanjay Kumar Vs. the State of Bihar and Others

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Court : Patna

Decided On : Jun-05-2014

Judge : Mihir Kumar Jha

Appeal No. : Civil Writ Jurisdiction Case No. 21840 of 2013

Appellant : Sanjay Kumar

Respondent : The State of Bihar and Others

Judgement :

1. Heard learned counsel for the parties.

2. In this writ application the petitioner has prayed for the following relief:

a. For issuance of an appropriate Writ in the nature of Mandamus commanding the respondent State to produce the said notification by which the private respondent Shri Kishor Kunal has been nominated the member of the State Govt. in the search committee for appointment on the post of Vice Chancellor and Pro-Vice Chancellor in Kameshwar Singh Darbhanga Sanskrit University and after production of the same issue a writ in the nature of certiorari for quashing the same.

b. For issuance of an appropriate writ in the nature of certiorari quashing the part of the press release dated 22.10.2013 (Annexure 3) issued by the Governor's Secretariat, Bihar so far as it relates to constitution of Search Committee for

recommending Panels of names for the post of Vice Chancellor and Pro-Vice Chancellor of Kameshwar Singh Darbhanga Sanskrit University is concerned.

c. For issuance of an appropriate writ holding and declaring the constitution and notification of the Search Committee on the basis of the Private respondent being the member of the State Govt. in the Search Committee for recommending Panels of names for the post of Vice Chancellor and Pro-Vice Chancellor of Kameshwar Singh Darbhanga Sanskrit University to be wholly in teeth of the amended section 10(1)(ii) and 12 of the Bihar State University Act, 1976.

d. For issuance of an appropriate Writ directing the respondents to make appointment on the post of Vice Chancellor/ Pro Vice Chancellor of Kameshwar Singh Darbhanga Sanskrit University on the basis of recommendation of Panels of names by constituting a Search Committee in accordance with section 19(1)(ii) of the Bihar State University Act, 1976.?

3. Learned counsel for the petitioner in support of the aforementioned prayer has submitted that the nomination of respondent no.9 as a Member of Search Committee for appointment on the post of Vice Chancellor and Pro Vice Chancellor of Kameshwar Singh Darbhanga Sanskrit University (hereinafter referred to as 'the University') is bad because he is connected as a Member of Senate of the University and thus, disqualified in view of Section 10(1)(ii) of the Bihar State Universities Act (hereinafter referred to as 'the Act'). In this regard he has sought to explain that when an amendment was made in Section 10(1) of the Act by Bihar Act No. 14 of 2013 it was envisaged that for selection on the post of Vice Chancellor and Pro Vice Chancellor of the Universities a Search Committee should involve itself in the task of selection of Vice Chancellor and Pro Vice Chancellor and the Members of the Search Committee must not be only person to of eminence in the sphere of higher education but should not be connected in any manner with the University concerned or its Colleges. According to the learned counsel for the petitioner, moment respondent no.9 is found to have passed his Acharya examination from the same University and had also been the Vice Chancellor of the University from August, 2001 to February, 2004 and still continues as a Member of Senate of the respondent University, he will be deemed

to be connected with the University and as such, would stand disqualified from being Member of the Search Committee.

4. Per contra, Mr. Lalit Kishore, Principal AAG, learned counsel appearing on behalf of the State, has submitted that the writ petition at the instance of the petitioner is not maintainable as he himself is not an aspirant or a candidate for the post of Vice Chancellor/ Pro Vice Chancellor. He has further submitted that the Members of the Search Committee are not holders of the public office and as such, no writ in the nature of Quo Warranto can be issued by this Court for their removal as a Member of the Search Committee. According to Mr. Lalit Kishore only two types of persons can challenge the nomination on the post of Search Committee, firstly, such a person who can himself be a Member of the Search Committee or a person who being a candidate for the post of Vice Chancellor/ Pro Vice Chancellor is being adjudged by the Search Committee. In this regard Mr. Kishore has referred to paragraph no.24 to the writ application for demonstrating that the petitioner does not fall in either of the two categories. Reliance in this regard has been placed by him on the judgment of the Apex Court in the case of D. Nagaraj v. State of Karnataka and ors., reported in AIR 1977 SC 876 and in the case of Mohd. Shafi Pandow v. State of J and K and ors., reported in (2001)10 SCC 447. Mr. Kishore had also dwelt upon the aspect that there is a world of difference between an Ex-officio and a nominated Member of the Senate of the University and merely because someone is a Member of the Senate which has absolutely no role to play in selection and appointment of the Vice Chancellor/ Pro Vice Chancellor, he does not stand disqualified from being a Member of the Search Committee. He has also submitted that Mr. Kunal as a matter of fact has never attended a single meeting of the Senate of the University ever since he has relinquished of the post of Vice Chancellor of the University in the month of February, 2004. In this connection he has also referred to an undertaking already given by Mr. Kunal that in future also he does not intend to attend any meeting of the Senate of the University or to have any concerned with the affairs of the University. Reliance in this regard has also been placed by Mr. Lalit Kishore on a Division Bench judgment of Allahabad High Court in the case of Kashi Nath Misra v. Chancellor, University of Allahabad and ors., reported in AIR 1967 Allahabad 101. Mr. Lalit Kishore has produced the letter of respondent no.9 dated

28.10.2013 which reads as follows:

(LANGUAGE)

5. Mr. Yaduvansh Giri, learned Senior counsel appearing on behalf of the learned Chancellor, has submitted that the Chancellor has an absolute discretion in making nomination of a Member of the Search Committee in terms of Clause 3A and B of the Statutes and thus, when the petitioner has not challenged the aforesaid provision of the Statutes he cannot indirectly question the nomination of the Members of the Search Committee. He too has raised an issue of locus standi of the petitioner. He has further submitted that respondent no.9 is simply one of the three Member of the Search Committee with one of them being the Chairman and the role of the Search Committee is also very well confined, inasmuch as it has to submit a panel of 3-5 persons and from that panel the learned Chancellor as per wisdom has to select anyone for appointment on the post of Vice Chancellor/ Pro Vice Chancellor in consultation of the State Government. He has also submitted that this writ application has been purposely filed to delay the directions given by the Apex Court for appointment of the Vice Chancellor/ Pro Vice Chancellor within a fixed span of time in the judgment of Dr. Ram Tawakya Singh v. State of Bihar and ors., reported in 2013(3) PLJR 421 (S.C.), whereby and whereunder such appointment has to be made within a period of four months from the date of the order i.e. on or before 19.12.2013. He has summed up his submission by taking a stand that the writ application is in fact premature because once a selection on the post of Vice Chancellor/ Pro Vice Chancellor of the University is made any person aggrieved for whatsoever reason including disqualification of a Member of Search Committee could be assailed but for the time being when the petitioner is neither a candidate for the post of Vice Chancellor/ Pro Vice Chancellor nor does have the qualification for becoming a Member of the Search Committee his role seems to have interloper, who seems to have been set up for someone to only thwart the process of selection and appointment on the post of Vice Chancellor.

6. Learned counsel for the petitioner, in reply, has submitted that the issue of locus standi will pale into significance in view of the observations made by the Apex

Court in the case of Dr. Ram Rawakya Singh (supra) on the basis of which the entire action has been taken for selection and appointment of the Vice Chancellor through a Search Committee. He has further referred to and relied on the judgment of the Apex Court in the case of People's Union for Democratic rights and ors. v. Union of India and ors., reported in (1982)3 SCC 235, in the case of Fertilizer Corporation Kamgar Union v. Union of India and ors., reported in (1981)1 SCC 568, in the case of State of Maharashtra v. Sant Dnyaneshwar Shikshan Shastra Mahavidyalaya and ors., reported in (2006)9 SCC1, in the case of Raju Ramsing Vasave v. Mahesh Deorao Bhivapuprkar and ors., reported in (2008)9 SCC 54 and in the case of Dr. Pramod Kumar Singh v. State of Bihar and ors., reported in 2011(2) PLJR 1051.

7. The first and foremost question which would emerge for consideration on the basis of the materials on record and the submission of the parties is as to whether the petitioner can assail the constitution of a Search Committee? It is not in doubt that the concept of the Search Committee has been brought into existence by an amendment made in the Bihar State Universities Act. Section 10 of the Act lays down the provision for the Vice Chancellor and earlier the provision was that no person would be deemed to be qualified to hold the office of the Vice Chancellor unless such person is, in the opinion of the Chancellor, reputed for his scholarship and academic interest. As with regard to the University i.e. Kameshwar Singh Darbhanga Sanskrit University there was a special provision that for becoming Vice Chancellor of the University such person in the opinion of the Chancellor should be reputed for his scholarship in Sanskrit or has made notable contribution to Sanskrit education and to that extent the earlier provision of Section 10(1) of the is quoted hereinbelow:

œ10(1) No person shall be deemed to be qualified to hold the office of Vice-Chancellor unless such person is, in the opinion of the Chancellor, reputed for his scholarship and academic interest, and no person shall be deemed to be qualified to hold the office of the Vice-Chancellor of the Kameshwar Singh Darbhanga Sanskrit University unless such person is, in the opinion of the Chancellor, reputed for his scholarship in Sanskrit or has made notable contribution to Sanskrit education.?

8. Followed by the observations and directions given by the Apex Court in the case of Dr. Ram Tawakya Singh (supra) as with regard to bringing more transparency and objectivity in the appointment on the post of Vice Chancellor the aforesaid provision of Section 10(1) of the Act had been amended and was substituted in the following terms:

œ(1)(i) Persons of the highest level of competence, integrity, morals and institutional commitment are to be appointed as Vice-Chancellor. The Vice-Chancellor to be appointed should be a distinguished academician, with a minimum of ten years of experience as Professor in a University system or ten years of experience in an equivalent position in a reputed research and/or academic administrative organization.

(ii) The selection of Vice-Chancellor should be through proper identification of a Panel of 3-5 names by a Search Committee through a public notification or nomination or a talent search process or in combination. The members of the above Search Committee shall be persons of eminence in the sphere of higher education and shall not be connected in any manner with the University concerned or its colleges. While preparing the panel, the search committee must give proper weightage to academic excellence, exposure to the higher education system in the country and abroad, and adequate experience in academic and administrative governance to be given in writing along with the panel to be submitted to the Chancellor.

(iii) Following shall be the constitution of the Search Committee.

(a) A member nominated by the Chancellor, who shall be an eminent Scholar/ Academician of national repute or a recipient of Padma Award in the field of education and shall be the Chairman.

(b) The Director of Head of an institute or organization of national repute, such as, Indian Institute of Technology, Indian Institute of Science, Indian Space Research Organization, National Law University or National Research Laboratory or Vice-Chancellor of a statutory University nominated by the Chancellor as Member.

(c) A member nominated by the State Government who shall be an eminent Academician and have full knowledge of the academic structure and problems of higher education of the State.?

9. From the bare reading of the amended provision of Section 10(1) (ii) of the Act it is absolutely clear that the selection of a Vice Chancellor who has to be a distinguished educationist, with a minimum of ten years of experience of education of a University or ten years of experience of equivalent research and/or academic administrative organization has to be made through a Search Committee which has been empowered to make a panel of 3-5 persons. The qualification of the members of the Search Committee has also been clearly specified wherein there has to be a person of eminence in the sphere of higher education and what has been prohibited is that a Member of the Search Committee shall not be connected in any manner with the University concerned or its Colleges. Such Search Committee for the purposes of preparation of panel have also been given a cutout task to make their nomination while preparing the panel of 3-5 persons for the post of Vice Chancellor of a University by giving proper weightage to academic excellence, exposure to the higher education and adequate experience in academic and administrative governance and all these things have to be also incorporated in writing in the panel to be submitted by the Search Committee to the Chancellor.

10. The legislature has taken an utmost caution even in the constitution of a Search Committee, inasmuch as the member to be nominated by the Chancellor has to be an eminent Scholar/ Academician of national repute or a recipient of Padma Award in the field of education, who shall be the Chairman of the Search Committee. Even the members of the Search Committee other than the Chairman have to be either a Director or Head of an institute or organization of national repute, such as Indian Institute of Technology, Indian Institute of Science, Indian Space Research Organization, National Law University or National Research Laboratory or Vice Chancellor of a statutory University nominated by the Chancellor as a Member. The third Member of the Search Committee to be nominated by the State Government has to be also an eminent Academician or full knowledge of academic structure and problems of higher education of the State.

11. When these parameters have been set up not only for filling up the post of the Vice Chancellor but even for constitution of the Search Committee, can it be said that the expression "shall not be connected in any manner with the University concerned or its Colleges?" as used in Section 19(1)(ii) of the Act can be given any narrower interpretation so as to frustrate the object of entire Section 10 of the Act. In other words who can be said to be connected in any manner with the University or College which would disqualify him to be a member of the Search Committee. The dictionary meaning of the word "connection?" as per Oxford Dictionary is an association of ideas; relationship, or influential relative or associate. The word "connection?" used as now has to connote affinity association, bond, coherence, contact, correlation, correspondence, interrelationship, link, relationship, relevance, tie, tie-up. In the background of the aforementioned meaning of the word "connection?" when the composition of the Senate under section 18 of the Act is examined it would be found that there are four types of members, namely, Ex-officio Members, Life Members, Representative Members and Nominated Members. The Senate in fact is a very large body and its Ex-Officio Members included not only the Chancellor, the Vice Chancellor, the Pro Vice Chancellor, Commissioner and Secretary Higher Education, the Director of the Higher Education, the Director of the Health Services, the Director of Technical Education, the Deans of Faculties, Half of the Heads of University Departments as are not Deans, Ten Principals of Colleges maintained by the University and Five Professors/ Readers admitted to the privileges of the University. The Representative Members similarly includes ten persons from amongst the Members of the Bihar Legislative Assembly, four persons to be elected amongst the members of Bihar Legislative Council, fifteen teachers having not less than five years of teaching experience and one person to be elected each by the Bihar Secondary Teachers' Association, Bihar Hindi Sahitya Sammelan, Bihar Anjuman Taraqui-e-Urdu, Indian Medical Association (Bihar branch), Institute of Engineers, Bihar Branch and Bihar State Bar Council as also an employee of the University and Colleges as well as five students and five persons from the Governing Body of the Colleges. The nominated Members included three Members to be nominated by the Chancellor who are persons of scholarly pursuits, one meritorious student to be nominated by the Vice Chancellor, one person to be nominated by the State

Sports Council, six such registered graduates other than the teachers of the University, such members of the Syndicate as are not members of the Senate and ten persons to be nominated by the State Government.

12. It is in this backdrop that the life members of the Senate have also been prescribed under section 18 of the Act to include all ex-Vice-Chancellors of the University including those appointed to fill a casual or temporary vacancy of the Vice Chancellor as well as every person who has given to the satisfaction of the Chancellor a sum of not less than one lac rupees in cash for the purposes of the University. Thus, in the very concept of such a huge body of Senate it cannot be said that every member of the Senate is connected with the affairs of the University or its Colleges. In fact when a person has been made life member of the Senate and has never attended the meeting of the Senate and has also undertaken to never be part of the Senate can he be also said to be connected with the affairs of the University? If such a wide proposition as advanced by the learned counsel for the petitioner is taken into account, unfortunately the Chancellor is the first Ex-Officio Member of the Senate. Can it be said that since the Chancellor himself is the Member of the Senate and thus, is connected with the affairs of the University he too gets disqualified in either nominating the members of the Search Committee or making appointment on the post of Vice Chancellor submitted by the Search Committee on the post of Vice Chancellor.

13. In the considered opinion of this Court even such a proposition in fact would lead to absurdity and therefore, the expression œin connection with the affairs of the University? has to be understood in the context it has been used in Section 10(1)(ii) of the Act which would mean that a person, who is dealing with the affairs of the University on day to day basis and has a capacity to influence the decision with regard to preparation of panel by the Search Committee, cannot be a member of the Search Committee. For example, a Vice Chancellor of the University, who is every day taking decision in the University, cannot be made a member of the Search Committee for selecting his successor by virtue of his being associated/ linked/ tied up with the affairs of the University. There can be any other example of a person being in connection with the affairs of the University and the College, who is in direct employment of the University or the College and therefore, has a

stake or interest in the appointment of a Vice Chancellor but to an Ex-Vice-Chancellor who was made a life member and may not have even accepted such life membership either explicitly or by the conduct of not associating in any meeting of the Senate cannot be said to be a person connected with the affairs of the University/ Colleges.

14. In this background in the pleading of the petitioner as against nomination of respondent no.9 as a Member of the search Committee is taken into account it is found that it is wholly vague and at least not capable of even suggesting any bias of respondent no.9. The relevant portion of the pleadings of the petitioner in this regard in paragraphs no.25 reads as follows:

œ25. That if the present search committee consisting of a member who is/was connected with the respondent university would be allowed to discharge its obligations, there will be smell of having no partial appointment. As per the knowledge and information derived from the sources, the Private respondent has taken his educational qualification of Acharya from the Respondent University. He has been the Vice Chancellor of the Respondent University from August 2001 to February, 2004 when he voluntarily relinquished the post. He is at present the member of the Senate of the Respondent University and as such, he is very much connected with the Respondent University.?

15. It would be really interesting to note that the petitioner wants respondent no.9 to be disqualified to be the Member of the Search Committee also because respondent no.9 was a student of the University. If that logic is applied since the teaching of higher education in Sanskrit is only being done in the University every Scholar of this State who may have at one point of time pursued his educational course of studies will get disqualified.

16. As a matter of fact when the petitioner himself accepts that respondent no.9 was working as a Vice Chancellor a decade earlier and had voluntarily left the job he had to essentially make some pleadings to show that he was still connected with the affairs of the University/ College. As a matter of fact when the learned counsel for the petitioner is not in a position to deny this fact that respondent no.9 even though statutorily supposed to be a life member of the Senate of the

University has never attended the meeting of any of the Senate can he still have a grievance as against nomination of respondent no.9 as a Member of the Search Committee to constitute a panel.

17. In this regard, as noted above, the appointment of the Vice Chancellor has to be made by the Chancellor in consultation with the State Government in which there is no role assigned to the Senate. More-over respondent no.9 is only a Member of three-man Search Committee which is headed by Prof. K.V.Ramakrishnamacharyulu, Ex. Vice-Chancellor, Jagadguru, Ramanandacharya Rajasthan Sanskrit University, Jaipur, and also having another member of Prof. Mithila Prasad Tripathi, Vice-Chancellor, Maharishi Panini Sanskrit Evam Vedic University, B.M. Birla Shodh Sansthan Parisar, Dewas Road, Ujjain, M.P.. This Court, therefore, does not find any substance in the possible apprehension of bias in the matter of selection and appointment on the post of Vice Chancellor merely because of respondent no.9 being a Member of the Search Committee.

18. There are three types of bias known to law, firstly, Pecuniary bias which howsoever small may be automatically disqualifies a person to be an adjudicator. There is no allegation of any pecuniary bias against respondent no.9. There is also no allegation of personal bias which is a second type of bias known in law against respondent no.9, inasmuch as not a word has been said that respondent no.9 has been interested in selecting any particular candidate. In fact that stage has not come as yet. The third type of bias known to law is Official bias which is weakest type of bias. According to Griffith and Street in their book 'Administrative Law, 4th Edn., Page 156' Official bias would rarely invalidate proceedings. Professor Wade in the 'Administrative Law, 1988 Page 489-93' is of the view that ministerial or departmental policy cannot be regarded as a disqualifying bias. The above principles have been also accepted in India and mere 'official' or 'policy' bias has not been held to disqualify an official from acting as an adjudicator. Reference in this connection may be usefully made to the judgment of the Apex Court in the case of Gullapalli Nageshwara Rao v. A.P. State Road Transport Corpn. (Gullapalli I), reported in AIR 1959 SC 308.

19. The touchstone of official bias, therefore, in the words of De Smith in his treatise *Judicial Review of Administrative Action*, 1980, p. 261 is the 'real likelihood of bias' which means at least substantial possibility of bias. De Smith has also clarified that it should not be forgotten that the test of a real likelihood of bias must be based on the reasonable apprehensions of a reasonable man fully apprised of the facts. In other words, the reasonable apprehension in the mind of the reasonable man is necessary and such reasonable apprehension must be based on cogent materials. The Apex Court in the case of *International Airport Authority v. K.D.Bali*, reported in AIR 1988 SC 1099 and again in the case of *Secretary to Govt. Transport Deptt. V. Munuswamy*, reported in AIR 1988 SC 2232, has held that there must be cogent material and reasonable evidence to satisfy that there was a real likelihood of bias and vague suspicious of whimsical, capricious and unreasonable people should not be made the standard to regulate normal human conduct. Judged in this background if the petitioner's challenge to nomination of respondent no.9 as a Member of the Search Committee is taken into account it becomes more than clear that he is busy body and has no real interest in the matter. That would become clear from paragraph no.3 of the writ application, wherein he has stated as follows:

œ3. That the petitioner is doing his Research work from the respondent University and as such wants fair, proper and impartial selection process of appointment on the post of Vice Chancellor and Pro Vice Chancellor in the respondent University. The petitioner is approaching this Hon'ble Court by bringing the facts as illustrated below for kind adjudication of the same so that once again the dispute with regard to appointment on the post of Vice Chancellor and Pro Vice Chancellor may not arise after completion of the aforesaid selection process and once again the University might not run/ function on Adhoc Vice Chancellor. The development of the respondent University may not stall due to the dispute as would be raised by anyone in the selection process of appointment as the same is going to be made in teeth of the Act. The petitioner's whole anxiety is that a Regular Vice Chancellor/ Pro Vice Chancellor should be appointed in accordance with law by maintaining all the procedures as prescribed in the Statutes and in terms of the provisions of the University Act.?

20. The petitioner by virtue of his aforementioned credential cannot claim himself to become a Member of the Search Committee, which, as noted above, under section 10(1)(ii) and (iii) of the Act has described qualification which is not made by the petitioner. This, his very anxiety to see that the appointment of the Vice Chancellor is made in accordance with law has also to be understood in the context as to whether he could himself be a candidate for the post of Vice Chancellor. As noted above, he does not claim to have qualification for such post of Vice Chancellor as prescribed under section 10(1) of the Act and in fact his statement in paragraph no.24 of the writ application will leave nothing for speculation that he is also not qualified for the post of Vice Chancellor. Paragraph no.24 of the writ application reads as follows:

œ24. That the petitioner is challenging the aforesaid issue by way of the aforesaid writ petition only because he is interested in appointment of Vice Chancellors and Pro Vice Chancellors as per the provisions as enshrined in section 10 and 12 of the amended Act and also wants that no dispute should come in future after the appointment is made so that the education may not suffer in the universities on the ground of absence/ non-recruitment of Vice Chancellors/ Pro Vice Chancellors. The petitioner has an anxiety seeing the past of the appointment procedure that it should be done in accordance with law and the procedure as prescribed in law and furthermore taking into account the order passed by the Hon'ble Supreme Court. The petitioner has no personal interest in the matter as he is neither the applicant of the post nor he is anyway concerned with the said appointment.?

21. A question, therefore, would be what is the petitioner doing if he is not eligible for becoming a Member of the Search Committee or is a candidate for the post of Vice Chancellor or he himself said that he is not concerned with the said appointment. It, thus, becomes clear that the petitioner has got no locus standi to even assail the nomination of respondent no.9 as a Member of the Search Committee. To that extent the reliance placed by Mr. Lalit Kishore on the judgment of the Apex Court in the case of D. Nagaraj (supra) is apt and appropriate, wherein it was held as follows:

œ7. The sole question that requires to be determined in these appeal is whether the appellants could maintain the aforesaid writ petitions. It is well settled that though Article 226 of the Constitution in terms does not describe the classes of persons entitled to apply thereunder, the existence of the right is implicit for the exercise of the extraordinary jurisdiction by the High Court under the said Article. It is also well established that a person who is not aggrieved by the discrimination complained of cannot maintain a writ petition. The constitutional validity of the Abolition Act abolishing all hereditary village offices including the office of the Shambogue or Village Accountant having been upheld by this Court in *B.R.Shankaranarayana v. State of Mysore* (AIR 1966 SC 1571) (supra) and the first preference in the matter of appointment of Village Accountants having been given by Rule 4 of the 1970 Rules to all persons belonging to the category and class of the appellants who had served as Village Officers, the appellants who did not apply for appointment as Village Accountants in response to the aforesaid notification issued by the Recruitment Committee and did not possess the prescribed qualification, could not complain of the unconstitutionality of the 1970 Rules or of the Infringement of Arts. 14 and 16 of the Constitution which merely forbid improper or invidious distinctions by conferring rights or privileges upon a class of persons arbitrarily selected from out of a larger group who are similarly circumstanced but do not exclude the laying down of selective tests nor prevent the Government from laying down general educational qualifications for the post in question. The High Court was, therefore, right in holding that the appellants have no right to maintain the aforesaid writ petitions. The appeals accordingly fail and are dismissed but without any order as to costs.?

22. The aforesaid view has also been reiterated by the Apex Court in the case of *Mohd. Shafi Pandow* (supra), relevant portion whereof reads as follows:

œ2. Further, the appellant did not possess the minimum qualification required for direct recruitment, namely, TDC (Final) Medical, and therefore, he was ineligible for being considered as a direct recruit. In that view of the matter, he had no locus standi to assail the appointment made in favour of others who pursuant to the advertisement, did make application and did possess the requisite qualification, and were ultimately appointed. In this view of the matter, we see no infirmity with

the impugned judgment of the Division Bench requiring our interference with the same. The appeal fails and is accordingly dismissed.?

23. The reliance placed by the learned counsel for the petitioner on the judgment of the Apex Court in the case of Fertilizer Corporation Kamgar Union (supra), will have no application in the facts of the present case, where actually the issue was as with regard to Public Interest Litigation and the right of the common people to raise a issue relating to public enterprises. As a matter of fact even the case of People's Union for Democratic rights (supra), was with regard to violation of Labour Law made for the welfare of the workman and therefore, whatever was said as with regard to maintainability of a writ petition under Article 32 of the Constitution of India was again in the context of Public Interest Litigation. This Court in fact has also failed to appreciate as to how the ratio of Sant Dnyaneshwar Shikshan Shastra Mahavidyalaya (supra) can be made applicable, inasmuch as the issue involved in that case was with regard to recognition of the institution offering course in Teachers Training and education and the question of locus standi in fact was not decided and left open vide paragraph 81 of the judgment. The last judgment of the Apex Court referred to by the learned counsel for the petitioner in the case of Raju Ramsing Vasave (supra) again relates to a Public Law Litigation and was rendered in exercise of power under Article 142 of the Constitution of India pertaining to a fraud on the basis of a caste certificate as would be apparent from reading of paragraphs no. 45 to 49. Here in this case the matter relates to appointment on the post of Vice Chancellor and its Search Committee which is out and out a service matter and not even a Public Interest Litigation. Thus, the question of locus standi would be relevant consideration and this Court having regard to the fact that the petitioner neither had the qualification to become Member of the Search Committee nor had even been the qualification or was applicant for the post of Vice Chancellor must hold that the petitioner has no locus standi to file this writ application.

24. Thus, for the reasons indicated above, this Court does not find any merit in this writ application and the same is, accordingly, dismissed.