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

% **Date of Decision :15.03.2024**

+ W.P.(C) 3735/2024 and CM APPL. 15399/2024, 15401/2024

SAKSHI

..... Petitioner

Through: Mr. Sanjay Poddar, Sr. Adv. along with Mr. Jivesh Tiwari, Mr. Aditya Kashyap, Mr. Govind Kumar and Mr. Siddhant Poddar, Advs.

versus

JAWAHARLAL NEHRU UNIVERSITY THROUGH ITS REGISTRAR & ANR.

..... Respondents

Through: Ms. Monika Arora along with Mr. Subhrodeep Saha, Advs. for R1.
Mr. Vasanth Rajasekaran, Mr. Saurabh Babulkar and Mr. Harshvardhan Korada, Advs.
Mr. Abhik Chimin, Mr. Anant Khajuria, Mr. Maroof, Advs. for Intervenors.

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

SACHIN DATTA, J. (Oral)

CM APPL.16323/2024 (filed under Order 1 Rule 10 (2) CPC for intervention and directions)

1. This is an application filed under Order 1 Rule 10 (2) CPC seeking intervention/impleadment of (i) Aishe Ghosh and (ii) Md. Danish.
2. With the consent of the parties, the application is allowed. Consequently, the applicants i.e. Aishe Ghosh and Md. Danish are



impleaded as respondent nos.3 and 4 respectively.

W.P.(C) 3735/2024

3. The present petition has been filed by the petitioner being aggrieved with the procedure adopted by the respondents for constituting the Election Committee ('EC') for the purpose of elections of the Students Council and office bearers of the Jawaharlal Nehru University Students Union ('JNUSU') for the academic year 2023-24 [hereinafter referred to as the impugned elections]. In this context, the petitioner has impugned the notification dated 16.02.2024 whereby it was recorded that the respondent nos.3 and 4 have been authorised by the University General Body Meeting ('UGBM') to conduct the General Body Meeting ('GBM') in the various constituent schools of the Jawaharlal Nehru University (JNU) for electing the members of the 'election committee' for the purpose of the impugned elections.

4. Pursuant to the aforesaid nomination/authorization by the UGBM in favour of the respondent nos.3 and 4, the said respondents organized/presided over General Body Meetings in the various constituent schools of JNU.

5. Consequentially, in furtherance of the aforesaid exercise, a further notification dated 06.03.2024 came to be issued by the respondent nos.3 and 4 whereby the names of the members of the EC alongwith chairperson was notified. The said notice reads as under :-



No.3/IHA/Notification/2024

Date: 06.03.2024

NOTIFICATION

This is in reference to the circular dated 16.02.2024 wherein Ms. Aishe Ghosh and Mr. Md. Danish were authorized to conduct GBMs of the students for formulation of Election Committee (EC) to initiate the JNUSU election 2023-24 process.

In this regard, the following list of EC members along with Chairperson Election Committee (CEC) has been submitted. The Dean of Students hereby notifies the same.

S.No	Name and programme of study	School/Spl. Centre	
1.	Mr. Shailendra Kumar [Ph.D] Mobile-7061962716	SIS	Chairperson [CEC]
2.	Bidisha Majumder (M.A.)	SAA	Member
3.	Kishore B. Boruah (PHD)	SAA	Member
4.	Pratyush Kumar Singh (PHD)	CSRSD, SSS	Member
5.	Ravi Kiran (PHD)	CSRSD, SSS	Member
6.	Jaiwant Murmu (PHD)	CSSEIP, SSS	Member
7.	Abhay Patel (M.A.)	CSRSD, SSS	Member
8.	Rishu Mishra (M.A.)	CPS, SSS	Member
9.	Nikhil Sahu (PHD)	CSAS, SIS	Member
10.	Shailendra Kumar (PHD)	CSAS, SIS	Member
11.	Srishti Gupta (M.A.)	PISM, SIS	Member
12.	Rahul Kundu (PHD)	CES, SIS	Member
13.	Parul Verma (PHD)	SCNS	Member
14.	Vimlesh (PHD)	SSIS	Member
15.	Bishal (M.SC)	SSIS	Member
16.	Ranjana (M.SC)	SSIS	Member
17.	Gordhan Singh (PHD)	SCMM	Member
18.	Ashutosh (M.TECH)	SCSS	Member
19.	Sushant Maji (PHD)	SCSS	Member
20.	Shashi Ranjan (M.TECH)	SCSS	Member
21.	Anuranjan Ekka (PHD)	SLS	Member
22.	Kaushik Saha (PHD)	SLS	Member
23.	Vikas (PHD)	SCIS	Member
24.	Narendra Kumar (PHD)	SPS	Member
25.	Sneha (M.SC)	SPS	Member
26.	Anjali Meena (M.SC)	SPS	Member
27.	Keeratpreet Singh (B.TECH)	SoE	Member
28.	Prachi Atri (B.TECH)	SoE	Member

VERDICTUM.IN

29	Nishchay Karn (B.TECH)	SoE	Member
30	Tavish Bhadu (B.TECH)	SoE	Member
31	Yash Kumar (MBA)	ABVSME	Member
32	NIL-seat vacant-	SBT	Member
33	Rashmita Sharma (PHD)	SES	Member
34	Hemananda Behera (M.SC)	SES	Member
35	Shashikant (PHD)	CPCAS, SLL&CS	Member
36	Samridhi Rai (M.A.)	CFFS, SLL&CS	Member
37	Neetu Bhaskar (PHD)	CPCAS, SLL&CS	Member
38	Akhlaqur Rehman (M.A.)	CRS, SLL&CS	Member
39	Md. Niyaj Aalam (M.A.)	CPCAS, SLL&CS	Member
40	Shivani Tulsyan (PHD)	CFFS, SLL&CS	Member
41	Harshita Swami (PHD)	CSLG	Member
42	Livencee Marandi (M.A.)	Amalgamate Schools/Centre(S CNSS, SCTS, SCDR, SCSNEI, SCSM)	Member

The Chairperson, Election Committee (CEC) shall hold the JNUSU Election for the current Academic year 2023-24 strictly in accordance with the terms provided in the Lyngdoh Committee Report and modified by Hon'ble Supreme Court of India vide orders dated 8th December, 2011.

The Chairperson, Election Committee (CEC) is required to submit the full details of Election Committee members (Name, Programme of Study, Permanent Address, Telephone numbers, Centre and School), CEC circulars and minutes of the Election Committee meetings etc. to the Office of Dean of Students.

This issues with the approval of the Competent Authority.

M. S. 14
06/03/2024
(Manuradha Chaudhary)
Dean of Students

Copy to :

1. All Dean of Schools/Chairpersons of Special Centres
2. All Senior Wardens/All Provosts/Chief Proctor
3. OSD to Vice-Chancellor
4. PS to VC/Rectors/Registrar/CEO/Director Admission, Finance Officer/
Librarian/Director, CIS
5. DR (IHA)/DR (SC/ST Cell)/DR (Legal)
6. PRO/CSO
7. SO (IHA)- To upload the Notification on IHA website for the information of all concerned.



6. Learned senior counsel for the petitioner has made the following submissions :-

(i) It is contended that in terms of article 13 of the Constitution of the JNUSU, the elections to elect the Students' council and office bearers of the JNUSU are required to be held "not later than three months from the date of the opening of the University after the summer vacation." It is submitted that is thus, an embargo on conducting elections after the expiry of the said period. It is submitted that rationale of this stipulation is to ensure that elections are not conducted at a time when majority of the students are occupied with examinations and academic deadlines, making it non conducive for them to participate in the election process.

(ii) Attention is drawn to Article 18 of the Constitution of the JNUSU, which provides as under :-

"Article 18. Election Committee

(i) There shall be Election Committee consisting of as many full-time students from each school as needed but not exceeding as many persons as there are councillors from each school to conduct elections of the office-bearers and the councillors.

(ii) Rules and procedures of Student Union Elections are laid down in Appendix 1.

(iii) Every member of this Committee must have the approval of 2/3 of the students council and this panel must be presented by the student council to the General Bodies of each school for approval of the respective members from each school.

(iv) No member of the Students Council is eligible for the membership of this committee."



It is contended that in terms of the aforesaid stipulation, for the purpose of constituting the election committee, the election committee must have approval of 2/3rd of the Students Council and thereafter, the panel must be presented to the general body for approval of respective members from each school. It is submitted that the procedure adopted for the purpose of constituting the election committee for the impugned elections completely by-passes the Students Council. It is contended that whilst excluding the Students Council, the respondent no.3 and 4 were handpicked for the purpose of conducting the GBM of the various constituent schools of the JNU, for the purpose of electing members of the EC.

According to the learned senior counsel for the petitioner, the procedure adopted for electing the members of the election committee, being in complete contravention of the rules, altogether vitiates the resultant election process. It is pointed that in terms of Appendix 1 of the constitution of the JNUSU, the election committee has “total powers” as far as the conduct of elections are concerned; the powers of the Election Committee includes the power to disqualify the candidates and /or voters.

(iii) It is submitted that the respondent nos.3 and 4 illegally presided over the GBMs of various schools despite availability of the duly elected councillors from each school.

(iv) It is contended that the manner in which the GBMs were conducted in respect of each school for the purpose of electing the members of the EC was wholly arbitrary and without any due process being followed; the members of the EC were handpicked at the mere *ipse dixit* of respondent nos.3 and 4. In this regard, it is specifically contended that the respondent



nos.3 and 4 resorted to a “chit system” for the purpose of hand-picking members of the EC from various schools. It is submitted that the resultant Election Committee (EC) does not have the collective mandate of the student bodies/GBMs of each school.

(v) Lastly, it is contended that the respondent nos.3 and 4 are affiliated to a political party. Not only that, the respondent no.3 is stated to have contested the state legislative assembly elections in the State of West Bengal as a candidate of a political party from the assembly constituency “279 Jamuria”. It is submitted that as a result of their political bias the respondent nos.3 and 4 have connived to constitute the EC with clear bias towards candidates aligned with their ideological/political stance.

7. *Per contra*, learned counsel for the respondents have contended that there is no infirmity in the exercise conducted for the purpose of constituting the Election Committee for the purpose of conduct of elections of JNUSU. It is submitted on behalf of the respondent no. 2 as under:

(i) The petitioner has no *locus standi* to file the present petition as the petitioner is admittedly not a candidate for the purpose of the elections proposed to be conducted. Further, the attempt on the part of the petitioner to derail the election process at the fag-end of the election process ought not to be permitted;

(ii) It is submitted that on 06.03.2024, a Grievance Redressal Cell has been constituted for election related grievances. The said notification issued by the office of the Dean of students constituting the Grievance Redressal Cell is as under :-



जवाहरलाल नेहरू विश्वविद्यालय
JAWAHARLAL NEHRU UNIVERSITY
डीन छात्र कार्यालय
OFFICE OF THE DEAN OF STUDENTS
नई दिल्ली 110067 –
New Delhi-110067

No.JNU/DOS/JNUSU/2023-24/

06.03.2024

Subject : Constitution of Grievance Redressal Cell for JNUSU Elections 2023-24.

NOTIFICATION

As per the Guidelines (Clause 6.8 of the Lyngdoh Committee Recommendations), the Vice-Chancellor has constituted a "Grievances Redressal Cell (GRC)" with immediate effect and until further order, with the following members, with the mandate for the Redressal of election related grievances, including, but not limited to breaches of the code of conduct of elections and complaints relating to election-related expenditure :

1.	Prof. Manuradha Chaudhary, Dean of Students	Chairperson
2.	Prof. Manju Khari, SC&SS	Member
3.	Prof. Kaushal Kumar Sharma, CSR/SSS	Member
4.	Ms. Ranjana, SS&IS (Students Representative)	Member
5.	Mr. Nishant Yadav, SSS (Students Representative)	Member
6.	DR/AR (IHA)	

The GRC shall serve as the "Court of Original Jurisdiction". The institutional head, i.e. the Vice-Chancellor shall have "Appellate Jurisdiction" over the issues of law and fact in all cases or controversies arising out of the conduct of the elections in which the GRC has issued a final decision. Upon review, the Vice-Chancellor may 'revoke or modify' the sanction imposed by the GRC. In carrying out the duties, the GRC shall conduct proceedings and hearing necessary to fulfil those duties. In executing those duties they shall have the authority:

- (i) To 'prosecute' violators of any aspect of the code of conduct or the rulings of the GRC.
- (ii) To issue a Writ of subpoena to compel candidates, agents and workers and to request students to appear and give testimony, as well as produce necessary records.
- (iii) To inspect the financial reports of any candidates and make these records available for public scrutiny upon request.
- (iv) Any other grievances related to the conduct of the JNUSU elections.

This has approval of the Competent Authority.

M-214
06/03/2024
(Manuradha Chaudhary)
Dean of Students

To: The Chairperson and all members of the Grievance Cell

It is submitted that there is no impediment for the petitioner, or anyone else for that matter, in approaching the Grievance Redressal Cell in the event of any grievance as regards any aspect of the conduct of the impugned elections.



(iii) As regards the impugned elections not being in consonance with the timelines contemplated under Article 13 of Constitution of the JNUSU, it is submitted that the academic session of the Ph.d students in the JNU could commence only by the first week of February, 2024. This was on account of the fact that the Ph.d admission in JNU and several other institutions across India are held based on the results of the entrance examination conducted by the National Testing Agency ('NTA'). It is submitted that the NTA published the results only in the third week of the November, 2023. It is pointed out the JNU being a research oriented institute, has influx of substantially greater number of students at the post-graduate level than at the under-graduate level. Even at the post-graduate level, Ph.d students comprise approximately 2/3rd of the entire students at JNU. As such, it cannot be said that there has been a delay in the holding of the impugned elections considering that the academic session for Ph.d students commenced only by the first week of February, 2024 and the election process was initiated immediately thereafter. Further, it is submitted that the rationale behind the decision to hold elections post the commencement of the academic session for fresh batch of Ph.D students, was to ensure maximum participation of students in the election process, since Ph.D students comprise bulk of the students at JNU. Furthermore, the decision is also in line with para 6.4.2 of the Lyngdoh Committee Report which requires JNU to hold the Elections 6 to 8 weeks from the date of commencement of the academic session.

(iv) As regards the procedure followed for constituting the election committee, it is submitted that since elections could not be conducted for the academic years 2020-21, 2021-22 and 2022-23, the situation that existed



was that there was an absence of an outgoing student union. In the circumstances, the JNU administration decided to issue an open correspondence to all representatives of various students organizations within JNU encouraging them to come forth and discuss the matters pertaining to the conduct of elections for academic year 2023-24; the meeting for this purpose was convened on 05.02.2024. In the meeting held on 05.02.2024, the following was recorded:-

“The President/Students representative of the above student’s organizations were present in the meeting.

It was decided that the students after consensus will give the names of the students to be authorised to conduct GBM of the students for formation of EC to start JNUSU elections process for 2023-24.”

Thereafter, a UGBM was conducted in which the respondent nos.3 and 4 were authorized to conduct/ preside over the GBM of the various constituent schools of the JNU for electing member of the Election Committee (EC). It is thus contended that the authorization conferred on the respondent nos.3 and 4 to conduct/ preside over the GBMs of the different schools, for selecting the members of the EC, enjoyed the sanction of the larger University General Body, and thus cannot be faulted. Moreover, it is emphasized that this procedure was resorted to in view of the hiatus created on account of the elections having not been conducted in the previous academic year/s.

(v) It is submitted that there was no infirmity in the conduct of the GBM in different schools to facilitate the elections of the EC for the purpose of JNUSU elections. It is submitted that the petitioner herein is a member/student of the School of Language, Literature and Cultural Studies



(SLL & CS) and certainly not in a position to complain as to the procedure qua the procedure as regards GBM in various other constituent schools of the JNU.

(vi) It is strongly emphasized that the elections must not be interdicted once the election process has started and reached an advanced stage. Attention is drawn to a judgment/order dated 17.09.2019 passed in W.P.(C) 9707/2019 where in the context of challenge to the elections conducted in 2019, it was *inter alia* directed by this Court that it would be appropriate for the petitioner therein to approach the Grievance Redressal Cell. Accordingly, this Court had allowed the declaration of results subject to further order/s of the Grievance Redressal Cell on the various complaints received by it.

Analysis and Conclusion

8. On a *prima facie* conspectus, some of the contentions that have been raised on behalf of the petitioner as regards the manner in which the EC was constituted for the purpose of the impugned elections, merit deeper consideration.

9. The petitioner relies upon Article 18.3 of the Constitution of the JNUSU to contend that it is impermissible to by-pass the Students Council from the process of the constituting the EC. The by-passing of the Students Council is sought to be justified by the respondent no.2 ('Dean of students' of the JNU) on the ground that "there is absence of an outgoing Students Union, most importantly the President and the General Secretary" (para 27 of the counter-affidavit).

10. The above plea, regarding absence of an outgoing Students Union, has been refuted by learned counsel for the respondent no.3 (who was elected as



the President in elections held in 2019) and by the respondent no.4 (who was elected as the joint secretary in the elections held in 2019). As such, *prima-facie*, the rationale/justification for the procedure adopted for the purpose of nominating/authorizing the respondent nos.3 and 4 to preside over the school level GBMs, is negated to some extent, on account of this stand of the respondent nos.3 and 4 themselves. Moreover, even as per the resolution of the UGBM (which authorised the respondent nos.3 and 4 to convene/preside over the GBMs of various schools), it was clearly mentioned that “in the schools where the councillors elected in 2019-20 are available, the GBMs can be presided over by the councillors in coordination with the office bearers”. There is nothing on record to suggest that this procedure was followed.

11. Further, there is ambiguity about the so called “chit system” followed by the respondent nos.3 and 4 for the purpose of conducting the school level GBMs (for the purpose of electing members of the EC from the various schools). The ambiguity is accentuated by the explanation sought to be given by the respondent nos.3 and 4 during the course of hearing as regards the procedure adopted, coupled with the absence of any records or minutes reflecting the procedure devised to elect members of the EC from the various constituent schools of the JNU. Needless to say, the relevant records would have to be minutely perused to arrive at a definitive conclusion as regards the legality and propriety of the procedure followed.

12. In the context of the above, instead of this Court embarking upon an intricate factual inquiry, it would be apposite if in the first instance, the petitioner’s complaints/ grievances are examined by the Grievance Redressal Cell which has been specifically constituted for the purpose of the



impugned elections. Previously also, in the context of a challenge to the elections of the JNUSU in 2019 [*vide* W.P.(C) 9707/2019], this Court had directed the concerned Grievance Redressal Cell to entertain and dispose of any complaint regarding conduct of elections, taking into account the Lyngdoh Committee recommendations; the declaration of the results was made subject thereto.

13. Accordingly, liberty is granted to the petitioner to approach the Grievance Redressal Cell set up vide the aforesaid notification dated 06.03.2024, and in terms of the Lyngdoh Committee recommendations. The Grievance Redressal Cell is directed to examine the grievances raised by the petitioner and pass a reasoned order thereon in accordance with law.

14. Needless to say, in case it is found that the constitution of the EC is not in consonance with the law and/or with the Lyngdoh Committee recommendations (as approved by the Supreme Court), appropriate consequential orders as regards the impugned elections, would also be passed by the Grievance Redressal Cell.

15. In view of the election schedule that is stated to have been notified on 10.03.2024, the Grievance Redressal Cell is directed to complete the aforesaid exercise and pass a reasoned order prior to declaration of the final results.

16. Respective counsel for the parties are also in agreement that in the meantime, for the purpose of the ongoing election process, a retired judge of the Supreme Court be appointed by this Court, as the Observer to exercise oversight over the activities/functions to be discharged by the Election Committee. For this purpose, Mr. Justice V. Ramasubramanian, Former Judge, Supreme Court of India, (Mob. No.:+91 9318456789) is appointed as



the observer.

17. The observer shall be entitled to charge appropriate remuneration from the Respondent No. 1.

18. The present petition, alongwith pending applications, stands disposed of with the aforesaid directions.

SACHIN DATTA, J

MARCH 15, 2024/r,hg