

THE ALL-CAMPUS JUDICIAL COUNCIL OF THE UNIVERSITY OF ROCHESTER STUDENTS' ASSOCIATION

THOTTATHILL *v.* THE ALL CAMPUS JUDICIAL COUNCIL (DAVE ISEMINGER, CHIEF
JUSTICE)

[October 13, 2004]

JUSTICE BOWSER delivered the opinion of the Council.

I

Princy Thottathill, a sophomore, appeals the decision of the All Campus Judicial Council, Dave Iseminger serving as respondent, in the case of *JOE CALA v. SENATE ELECTIONS COMMITTEE*, which ordered the seat that the elections committee had given her be filled by Joe Cala, citing a violation of Article VIII, §1 of the Students' Association Constitution. Dave Iseminger claims that the decision of ACJC in *JOE CALA v. SENATE ELECTIONS COMMITTEE* was not unconstitutional.

II

For the fall 2004 elections, held September 20-22, the Senate Elections Committee included the Class of 2006 Senate seat with the other available Senate seats up for general election. The Petitioner Princy Thottathill ran for this election and won with 73 votes. The Speaker of the Senate then proceeded to certify the results of the election. Princy Thottathill attended the Senate meeting on the night of September 27th under the pretence that she was indeed a Senator and participated in the business of Senate including the casting of votes on two issues.

Joe Cala, who had received the third highest number of votes in the Spring 2004 election, appealed the decision of the Senate Election Committee to open the class of 2006 seat to an election, citing Article I, §1.G.3 of the Students' Association bylaws.

On October 1st, the All Campus Judicial Council issued its decision in the case of *JOE CALA v. SENATE ELECTIONS COMMITTEE*. In the decision the Council ordered that the election was invalid and void because it the two Class of 2006 Senators are David Laden and Joe Cala. The Council realized that by declaring the election to have been unconstitutional, Princy Thottathill's constitutional right to run for a seat was impaired. The Council therefore ordered that the Susan B. Anthony Senate election, the other election to which she had been eligible to be elected, be rerun with her name on the ballot along with Matt Goldblatt and Hannah Gerswein. The Council ordered that this election should take place by October 22nd.

In her appeal, Princy Thottathill claims that she was unconstitutionally removed from her Senate seat. She contends that once she held the Class of 2006 Senate seat, there were only two constitutional methods for removing her from the seat. The two methods are described in Article VIII, §1 of the Students' Association Constitution which reads:

Section 1a A students' Association Senator may be recalled by petition of one-third (1/3) of that Senator's constituents. Said petition shall be presented to the Speaker of the Students' Association Senate, who shall call for an election within two weeks of the presentation of the petition.

Section 1b Senators may also be removed by a vote of two-thirds (2/3) of the entire Senate.

The Petitioner argues that, since the constitution presents the only ways a Senator can be removed from their seat, ACJC acted unconstitutionally in granting the 2006 Senate seat to Joe Cala, and removing her from the seat. She further argued that as soon as she sat in Senate and participated in the business of Senate, her removal was protected via the SA Constitution, as cited above. She further argues that the constitution puts limits on the judicial review powers of ACJC as a check and balance measure of the legislative and executive branches of the Student Association government against the judicial branch.

Dave Iseminger argues that the action taken by ACJC was constitutional. He claims that precedence in this matter is on the side of ACJC citing two cases ADAM SIMMONS, et al., PETITIONERS v. SA SENATER, et al. and ATUL GULATI and Lonny Mallach v. SA SENATE. Both cases that have rescinded elections and call for new elections to take place. The Respondent further argues that ACJC did in fact invalidate and nullify the election concurrent with precedence. He also argues that Princy Thottathill could not have been a Senator because the seat itself was never available. The Respondent argues that the decision of ACJC was to return to status quo if the Senate Elections Committee had not violated the By-laws.

III

Here the Council holds that it did not act unconstitutionally in nullifying the Fall election of a Class of 2006 seat and installing Joe Cala into such seat. We hold that Article VIII, §1 of the Students' Association Constitution does not apply to its previous decision. By acting to overturn the decision of the Senate Elections Committee we did not remove Princy Thottathill from her seat. Our decision was that the Fall election of a Class of 2006 seat violated the bylaws. We in fact invalidated the election itself thereby nullifying the actions of Senate which violated the by-laws. Based on that decision, Princy Thottathill never was a Senator as there was no seat to which she could fill.

The Council holds that:

- ❖ Our Decision in JOE CALA v. SENATE ELECTIONS COMMITTEE stands.
- ❖ That the record of the September 27th Senate meeting will be changed to reflect the absence of the second Class of 2006 seat currently held by Joe Cala and that any votes cast by Ms. Thottathill will be removed from the vote totals. If this action causes any change in outcome, those issues may be revoted upon at the next Senate meeting.

It is so ordered.

