

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 34 of 2009**

Guru Ghasidas University, Bilaspur, Through its Registrar, Guru Ghasidas University, Koni, Bilaspur, (Chhattisgarh).

---- Petitioners

Versus

1. Dr. Rajiv Shankar Kher, S/o Late Shri S.V.Kher Aged 44 years. R/o 202, Shanti Apartment, Tikarapara Bilaspur, District Bilaspur (Chhattisgarh).
2. Dr. Kamal Prasad S/o Kapil Dev Prasad, aged about 40 years, Reader, Department of Physics, Guru Ghasidas University, Dist. Bilaspur (Chhattisgarh).

---- Respondents

For Appellant	:	Shri Ashish Shrivastava with Shri Animesh Verma, Advocates.
For Respondents	:	None.

Hon'ble The Acting Chief Justice
Hon'ble Shri Justice P. Sam Koshy

Order On Board**Per Navin Sinha, Acting Chief Justice****26/03/2015**

1. The records reveal that the Respondent No. 1, after having entered appearance has stopped appearing since 30.07.2010, though the matter has been listed on several occasions.
2. The present appeal arises from order dated 14.11.2008 in Writ Petition No. 3624 of 2005 allowing the writ petition holding that the Respondent No. 1 was entitled for appointment on the post of Reader (Physics) setting aside the appointment of Respondent No. 2.
3. Learned Counsel for the Appellant submits that the Learned Single Judge could not have re-examined respective qualifications of the candidates to arrive at his own conclusion at variance with that of the Selection Committee. There were no allegations of any malafide or violation of selection

criteria against the Selection Committee. The Selection Committee consists of experts and in academic matters, the Court should be loathe to interfere with matters of selection, marks awarded to the candidates etc.

4. Without prejudice to the aforesaid, he submits that the judgment under appeal also suffers from error of record when it holds that the Respondent No. 2 had not guided any Ph.D candidate and therefore he was entitled to no marks in respect thereof. Referring to Annexure P-7 of the writ petition, the bio-data of Respondent No. 2, it is submitted that he had guided three Research Scholars for their Ph.D degree in the area of Ferro Electrics.

5. It was next submitted that the Learned Single Judge grossly erred in holding that Respondent No. 1 for his Ph.D thesis was entitled to 25 marks and that 2.5 accorded to him was a typographical mistake when no such concession was made by the University. It was lastly submitted that even if the findings of the Learned Single Judge are accepted, then also the final marks that would accrue to Respondent No. 1 would be 45 and that of the Respondent No. 2, 48. Respondent No. 2 still remains a superior candidate and his selection calls for no interference. Respondent No. 2 also never joined the post.

6. We have considered the submissions on behalf of the Appellant and are satisfied that the appeal can be disposed on a very short point as Respondent No. 1 does not appear to be interested in the matter anymore.

7. Leaving open all questions with regard to scope of judicial review against selection made by a duly constituted Selection Committee consisting of experts in the academic field on an academic post, we find that even if the reasoning of the Learned Single Judge is accepted for the sake of discussion, it still leaves Respondent No. 2 with 48 marks and Respondent No. 1 with only 45 marks making Respondent No. 2 a superior candidate.

8. In the circumstances, the direction setting aside the appointment of Respondent No. 2 and directing appointment of Respondent No. 1 is clearly unsustainable. It is accordingly set aside.

9. Considering that the Respondent No. 2 never joined and much time has passed since 2005 when the selections were made, the University, if it desires to fill up the post of Reader (Physics) must initiate fresh process of selection by publishing advertisement afresh.

10. The order under appeal is set aside. The appeal is allowed.

Sd/-
(Navin Sinha)
ACTING CHIEF JUSTICE

Sd/-
(P.Sam Koshy)
JUDGE