

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE**

FRIDAY, THE 19TH DAY OF JUNE 2015/29TH JYAISHTA, 1937

WA.No. 374 of 2015 ()

**-----
AGAINST THE JUDGMENT IN WP(C) 29951/2013 DATED 22.11.2014
-----**

APPELLANTS/RESPONDENTS 3 & 4 :

-
- 1. NATIONAL COUNCIL FOR SCIENCE AND
TECHNOLOGY COMMUNICATION (NSCTC)
DEPARTMENT OF SCIENCE AND TECHNOLOGY
TECHNOLOGY BHAVAN, NEW MEHRAULI ROAD
NEW DELHI-110 016, REPRESENTED BY ITS CHAIRMAN.**
 - 2. NSCTC NETWORK
E-56, FIRST FLOOR, SAMASPUR ROAD
PANDAV NAGAR, NEW DELHI-110 091
REPRESENTED BY ITS GENERAL SECRETARY.**

BY ADV. SRI.N.NAGARESH, ASGI

RESPONDENTS/PETITIONERS & RESPONDENTS 1, 2, 5 & 6 :

-
- 1. GOPIKA D.A., AGED 16 YEARS (MINOR),
D/O. DHILEEP KUMAR, RESIDING AT TC 28/1292(2)
KAILAS NAGAR, SREEKANTESWARAM,
THIRUVANANTHAPURAM – 695 023,
REPRESENTED BY HER GUARDIAN DHILEEP KUMAR.**
 - 2. BHANU KRISHNA P.S., AGED 16 YEARS (MINOR),
D/O. P.K.PADMAKUMAR, BHAJAN AREA, 34
ELLUVILA NAGAR, THIRUMALA P.O.,
THIRUVANANTHAPURAM, PIN-695 006
REPRESENTED BY HER GUARDIAN P.K.PADMAKUMAR.**
 - 3. AMRITHA DEVI I.M., AGED 16 YEARS(MINOR),
D/O. N.MURUGANANDAN PILLAI, AMRITHALAYAM
TC 40/1053(1), MANACAUD P.O.
THIRUVANANTHAPURAM-695 009
REPRESENTED BY HER GUARDIAN N.MURUGANANDAN PILLAI.**

4. APARNA V. NAIR, AGED 15 YEARS (MINOR)
D/O. N.VIJAYAKUMAR, KAMILY, KULARKUDIYOORKONAM
NEMOM P.O., THIRUVANANTHAPURAM, PIN-695 020
REPRESENTED BY HER GUARDIAN N.VIJAYAKUMAR.
 5. JITHI V.B.,
JITHI BHAVANAM, AGED 15 YEARS (MINOR),
D/O. S.VIJAYAN, NEAR LPS SCHOOL
URIYACODE P.O., THIRUVANANTHAPURAM, PIN-695 543
REPRESENTED BY HER GUARDIAN S.VIJAYAN.
 6. TISSA MARY JOHN, AGED 47 YEARS
W/O. SIBY THOMAS, TC 14/2037, PUTHENPURACKAL
VANROSS JUNCTION, THIRUVANANTHAPURAM, PIN-693 034.
 7. KERALA STATE COUNCIL FOR SCIENCE
TECHNOLOGY AND ENVIRONMENT, SHASTRA BHAVAN, PATTOM
THIRUVANANTHAPURAM-695 004
REPRESENTED BY ITS STATE CO-ORDINATOR.
 8. THE CHAIRMAN
KERALA STATE COUNCIL FOR SCIENCE
TECHNOLOGY AND ENVIRONMENT, SHASTRA BHAVAN, PATTOM
THIRUVANANTHAPURAM-695004.
 9. CARMEL GIRLS HIGHER SECONDARY SCHOOL
VAZHUTHACAUD, THYCAUD P.O., THIRUVANANTHAPURAM-695 014
REPRESENTED BY ITS PRINCIPAL.
 10. THE PRESIDENT
KERALA STATE COUNCIL FOR SCIENCE
TECHNOLOGY AND ENVIRONMENT, SHASTRA BHAVAN,
PATTOM, THIRUVANANTHAPURAM-695 004.
- R1 TO R6 BY ADVS. SRI.RAJESH NAIR
SRI.BIJOY CHANDRAN
R7, R8 & R10 BY ADV. SRI.GEORGE ZACHARIAH, SC
R9 BY ADV. SRI.P.B.AJOY

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 19-06-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Mn

...3/-

APPENDIX

PETITIONERS' ANNEXURES : NIL

RESPONDENT'S ANNEXURES :

**ANNEXURE R1(a) : COPY OF THE DATA PUBLISHED ON 21-5-2015 SHOWING
MARK LIST AND RESULT ISSUED BY THE DIRECTORATE OF
HIGHER EDUCATION, GOVERNMENT OF KERALA.**

**ANNEXURE R1(b) PHOTO SHOWING HIS EXCELLENCY, THE GOVERNOR OF
KERALA PRESENTING THE BOOK "BEYOND 2020" TO THE
FIRST RESPONDENT PETITION FILED UNDER 150 OF THE
KERALA HIGH COURT RULES.**

//TRUE COPY//

P.A. TO JUDGE

Mn

**ASHOK BHUSHAN, CJ
& A.M.SHAFFIQUE, J.**

*** * * * ***

W.A.No.374 of 2015

Dated this the 19th day of June 2015

J U D G M E N T

Shaffique,J

Respondents 3 and 4 in W.P.C.No.29951/2013 are the appellants. They challenge judgment dated 22/11/2014 by which the learned Single Judge while allowing the writ petition filed by respondents 1 to 6 herein had directed the first appellant to issue certificates to the petitioners within a period of three weeks from the date of receipt of a copy of the judgment. In the writ petition, petitioners sought for the following directions:

“(i) Issue a writ of mandamus, direction or order directing the first respondent to produce the entire selection details, evaluation and records including the marks allotted to various teams which were recorded down by the evaluators / Judges during the selection process including that of the team of the petitioners held on 12th and 13th of November 2013 at Gregarious Hall, Mar Ivanios Compound, Thiruvananthapuram,

towards the selection for the participation in the National Children's Science Congress scheduled to be held at Bhopal in between December 27th to 31st, 2013, and to hold that the entire selection process is vitiated and therefore liable to be set aside.

(ii) Issue a writ of mandamus, or any other writ, direction or order directing the first respondent to produce the marks obtained by the team of the petitioners and the observations and other details recorded by the Judges / evaluators by hand during the selection process held on 12th and 13th of November 2013 at Gregarious Hall, Mar Ivanios Compound, Thiruvananthapuram, towards the selection for the participation in the National Children's Science Congress scheduled to be held at Bhopal in between December 27th to 31st, 2013, pending disposal of this Writ Petition (C).

(iii) Issue a writ of mandamus, or any other writ, direction or order directing the first, second and sixth respondents to re-evaluate the project prepared and filed by the petitioners at the earliest and to include the team of the petitioners in the list for the upper age group which are selected to participate in the National Children's Science Congress scheduled to be held at Bhopal in between December 27th to 31st, 2013 on a provisional basis.

(iv) Declare that the team of the petitioners are entitled to participate in the National Children's Science Congress scheduled to be held at Bhopal in between December 27th to 31st, 2013."

2. The facts involved in the writ petition would disclose that the petitioners, who were students undergoing Standards 10 and 11 in the 5th respondent Carmel Girls Higher Secondary School, Vazhuthacaud, Thiruvananthapuram was selected at District level for Science competition. They participated in the State level as well. Certain disputes had arisen on account of the final marks awarded to the petitioners at State level competition. Petitioners contended that marks were awarded to them by a different panel and on the next day, another panel by substituting one person from among the Judges had given marks. The marks given by the second day's panel was so liberal that many of the schools got selected. This, according to the petitioners, was arbitrary and unfair and therefore they filed writ petition seeking for the aforesaid

directions:

3. By an interim order dated 20/12/2013, petitioners were permitted to take part in the National Level competition which was held at Bhopal from 27/12/2013 to 31/12/2013. Results were declared as per further orders issued by the learned Single Judge on 26/03/2014. Petitioners obtained B Grade and their grievance was non-issuance of certificates for taking part in the competition and obtaining B grade. After hearing the parties, the learned Single Judge, without going into the merits of the contentions raised, directed that since petitioners have participated in the National Level competition, they should be given the certificates and accordingly issued directions, as stated above. It is, challenging the aforesaid direction that respondents 3 and 4 have come up in the appeal.

4. It is contended by the learned Assistant Solicitor General of India that the learned Single Judge had not considered the writ petition on merits. Several students

participate in such competitions and if certificates are given to them without considering their eligibility to participate in the National competition, they will be entitled for grace marks, which would affect the other students who had not approached the Court. Therefore, according to the learned ASGI, the learned Single Judge ought to have decided the case on merits, before issuing the directions.

5. On the other hand, learned counsel appearing for the petitioners/respondents 1 to 6 herein would submit that in so far as the learned Single Judge had clearly indicated that the aforesaid judgment shall not form a precedent, there is no reason to challenge the same. That apart, the learned counsel for the petitioners submits that their interest is not to obtain any grace marks but only certificates for having obtained B grade in the National level competitions.

6. Learned counsel appearing for respondents 7, 8 and 10 submits that it is the agency which had conducted

evaluation of the State level competition. They filed a statement inter alia contending that the allegations in the writ petition were absolutely incorrect. Marks were not published since as per their rules, marks in the State level competition is to be published only after completion of National level competition.

7. Having heard the learned counsel on either side, we are of the view that the learned Single Judge ought to have decided the case on merits. This is not a simple case of issuance of certificates to the petitioners. It is a case of issuance of certificates which affects a large number of other students who had participated in the very same item and have been qualified. It is submitted that in the National level, petitioners got 'B' grade. In the State level, they were rank No.14 whereas only participants upto 10th rank will be selected to participate at National level. If any benefit is given to the petitioners, it will be an injustice to the persons who had obtained rank Nos.11 to 13 as well.

8. Having regard to the aforesaid submissions, we are of the view that the matter ought to have been considered on merits. On merits the only contention urged is that there was a change in the panel. Three members formed a panel and on a particular day one of the members was substituted by another person. As per the contention urged by respondents 7, 8 and 10, evaluation is conducted based on certain norms which cannot be challenged at all. That apart, the contention that liberal marks were given on the second day had been disputed. Under such circumstances, the evaluation made by experts ought not to be easily interfered by a writ court unless there are sufficient materials to indicate that the decision making process was arbitrary or unfair. In the absence of any such material, we are of the view that the learned Single Judge was not justified in granting concession to the petitioners without going into the merits of the case. We are not satisfied with the reason stated by the petitioner to interfere with the

selection process at the State level competitions.

In the result, the writ appeal is allowed, the judgment of the learned Single Judge is set aside and the writ petition is dismissed.

(sd/-)
(ASHOK BHUSHAN, CHIEF JUSTICE)

(sd/-)
(A.M.SHAFFIQUE, JUDGE)

jsr

