

**HON'BLE SRI JUSTICE DILIP B. BHOSALE
AND
HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO**

WRIT APPEAL No. 295 OF 2007

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JUDGMENT: (per the Hon'ble Sri Justice Dilip B. Bhosale)

This writ appeal is directed against the order dated 23-02-2007 passed on WPMP No.29740 of 2006 in Writ Petition No. 23354 of 2006, whereby the miscellaneous petition was dismissed.

This Court while admitting the writ appeal on 16-04-2007, on WAMP No. 562 of 2007 had passed the following order:

“This writ appeal is filed against the order of the learned Single Judge dated 23-02-2007 in W.P.M.P. No.29740 of 2006 in W.P. No.23354 of 2006.

By the order under challenge, learned Single Judge declined to pass an interim order but directed to list the writ petition itself along with two other writ petitions.

Writ Petition is filed seeking a writ of *quo-warranto* against the appointment of respondent No.1 as Director of Archaeology & Museums. The said post is created by the Rules framed under Article 309 of Constitution of India in G.O. Ms.No.10 dated 04-01-1999. Under Rule 3 thereof, said post is required to be filled either by promotion of Category – 2A i.e. Joint Director of Archaeology and Museums or if qualified person is not found suitable for promotion by direct recruitment. It appears that though post of Joint Director of Archaeology and Museum is created, said post is never filled up by the State of A.P. Therefore, in the absence of any person being available from category – 2A, the only mode of recruitment to the post in question appears to be by direct recruitment. Respondent No.1 was appointed ostensibly by way of deputation from some other service, which does not belong to the State of A.P. Apart from that, the challenge of the appellants is that under Rule – 4 of the above mentioned Rules, the basic qualification for a person to be appointed as Director is a Ph.D. Degree in Archaeology or History

or Indology or Anthropology from any University in India. Appellants not only specifically averred that respondent No.1 does not possess a Ph.D. in any one of the above mentioned four disciplines, but also pointed out that in an earlier litigation between appellant No.1 and respondent No.1 in O.A. No. 213 of 2005, A.P. Administrative Tribunal recorded a finding that respondent No.1 does not possess a Ph.D. Degree in any one of the above mentioned disciplines. This assertion of the appellants is not denied or rebutted, even today, by the learned Government Pleader for Respondent Nos.2 and 3.

On the other hand, learned Government Pleader submitted that respondent No.1 possesses a Ph.D Degree in some other discipline, which was considered as equivalent to Ph.D. as contemplated under the Rules.

The submission requires a very careful examination on two counts; whether the State is empowered to undertake such an exercise on the face of the Rules prescribing the definite qualification. Apart from that the mode of requirement is specified by the law, whether the State can depart from the mode of recruitment prescribed and the same conforms to the constitutional requirement of the Rule of law.

With the background of the above mentioned facts, we are of the opinion that matter requires a thorough examination and the appellants have made out a case for interim orders.

Hence, there shall be an interim direction, as prayed for.

Notice.”

Against this order, respondent No.1 and so also respondent Nos.2 and 3 carried the matter to the Supreme Court in SLP (Civil) Nos.7967 and 9354 of 2007 respectively. Both the SLPs were disposed of as infructuous on 03-01-2008 and 31-08-2009 respectively. We are informed that Writ Petition No. 23354 of 2006 is still pending for disposal. In this view of the matter, we do not find any reason to keep the writ appeal pending any further and we dispose of the same in terms of the interim order passed by this Court dated 16-04-2007 on WAMP No.562 of 2007.

Learned single Judge is requested to dispose of the writ petition expeditiously along with Writ Petition Nos.18548 and 23112 of 2006.

Miscellaneous petitions, if any, also stand disposed of. There shall be no order as to costs.

DILIP B. BHOSALE, J

A. RAMALINGESWARA RAO, J

13-04-2015

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