

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Writ Appeal No.367 of 2017

And

Writ Petition No. 38979 of 2014

Common Judgment: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

This writ appeal is preferred against the interlocutory order passed by the learned Single Judge in WVMP No.174 of 2015 in W.P. No. 38979 of 2014 dated 2.1.2017.

The appellant herein is the petitioner in the writ petition which was filed to declare the interviews and selection process conducted, pursuant to the notification issued to fill up backlog posts, dated 10.5.2014 as arbitrary and illegal; and for a consequential direction to the respondents to conduct interviews to the post of Assistant Professor in Microbiology.

While the appellant-writ petitioner, and respondent Nos. 2 and 3, appear to have been called for interview for the post of Assistant Professor in Microbiology, the appellant-petitioner invoked the jurisdiction of this Court even before the selections were finalized contending, among others, that respondent Nos. 2 and 3 were ineligible to be considered for appointment. Initially, there was an interim order of stay of all further proceedings pursuant to the notification dated 10.5.2014 issued by the 1st respondent to the extent of the vacancy notified in the post of Assistant Professor, Microbiology. The interim order was, however, vacated by the order under appeal.

While the appellant-writ petitioner has a Post Graduate Degree and a Ph.D in Botany, the 2nd respondent in the writ petition has a Masters Degree in Microbiology with a Ph.D. in Environmental Sciences. Before the Learned Single Judge, the

appellant-writ petitioner contended that Ph.D. in Environmental Sciences was not the prescribed qualification. She relied on an earlier notification issued by the University to contend that, in the absence of a Ph.D. in Microbiology, a Ph.D. in Botany would suffice. The learned Single Judge has, in the order under appeal, held the appellant-petitioner ineligible, and found only the 2nd respondent eligible to be appointed as Assistant Professor, Microbiology.

The grievance of the appellant-writ petitioner, as urged before us by Sri A. Satyaprasad, learned Senior Counsel, is that she has, by the order under appeal, been put in a worse position than she was before she had challenged the selection process; and though the University had called her also for interview, having found her eligible for being considered for appointment, the learned Single Judge has, in the order under appeal, held the appellant-writ petitioner ineligible for being considered for appointment to the post of Assistant Professor, Microbiology.

On the other hand Sri G. Vidya Sagar, learned Senior Counsel appearing on behalf of the 2nd respondent, would contend that the view expressed by the learned Single Judge is only a prima facie view based on G.O. Ms. No. 14 dated 22.2.2010; the appellant-writ petitioner, having participated in the selection process, has questioned the selection process itself; she cannot approbate and reprobate; and, on this short ground alone, the writ petition is liable to be dismissed.

While we find force in the submission of Sri A. Satya Prasad, learned Senior Counsel, that the appellant-writ petitioner, having invoked the jurisdiction of this Court under Article 226 of the Constitution of India, cannot be put in a worse position than she

was in before the writ petition was filed, we are satisfied that the question, whether respondent Nos. 2 and 3 were eligible for being considered for appointment, could have been agitated only after the selection process was completed; and that too only if either respondent Nos. 2 or 3 were appointed as an Assistant Professor in Microbiology. Merely because a candidate has been called to participate in the selection process, does not confer on her any right to claim that she should be appointed to the said post. Till the selection process is finalised, and orders of appointment are issued, no right is conferred, on any of the candidates who have participated in the selection process, to claim appointment to the posts for which the selection process was undertaken. Even before the University took a decision to appoint one of these candidates as an Assistant Professor in Microbiology, the appellant-writ petitioner invoked the jurisdiction of this Court under Article 226 of the Constitution of India. On this short ground alone, the writ petition is liable to be, and is accordingly, dismissed. Needless to state that the respondent-University shall take necessary action, in accordance with law, uninfluenced by any observations made either in the order under appeal or in the order now passed by us.

The writ appeal is disposed of accordingly, and the writ petition is dismissed on this short ground. Miscellaneous Petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(Dr. SHAMEEM AKTHER, J)

30th March, 2017
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