

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE MS JUSTICE J.UMA DEVI

Writ Appeal No.725 of 2018

JUDGMENT: (Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan)

Though the name of Sri Ramesh Bura, learned counsel for the 1st respondent-writ petitioner, is printed in the cause list, neither is he present nor is there any representation on his behalf. Heard Sri V.Ramchander Goud, learned counsel for the appellants (respondents 2 and 3 in the writ petition).

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the Learned Single Judge in I.A.No.1 of 2018 in W.P.No.9781 of 2018 dated 03.04.2018. The 1st respondent herein filed W.P.No.9781 of 2018 seeking a mandamus to declare the inaction of the appellants (respondents 2 and 3 in the writ petition) in not giving her admission into Ph.D. programme (full time), though she was fully qualified and eligible, as she was selected for DST INSPIRE fellowship, though the last date for uploading the application for DST INSPIRE fellowship was going to expire on 31.03.2018, as illegal, arbitrary, discriminatory and in violation of Articles 14, 16 and 21 of the Constitution of India.

By way of interlocutory relief, the 1st respondent-writ petitioner sought an interim order to direct the appellants (respondents 2 and 3 in the writ petition) to conduct interviews to her, and issue her admission into the Ph.D programme (full time) before 26.03.2018.

In the order under appeal the Learned Single Judge noted the submission, urged on behalf of the 1st respondent-writ

petitioner, that she was fully qualified and eligible for admission into the Ph.D programme (full time); she was also selected for DST INSPIRE fellowship; and the appellants (respondents 2 and 3 in the writ petition) were not conducting interview for her admission into Ph.D programme. The Learned Single Judge also recorded the submission, urged on behalf of the appellants (respondents 2 and 3 in the writ petition), that the 1st respondent-writ petitioner's admission into the Ph.D programme was not confirmed; there was no scope for extension of time for submission of application for DST INSPIRE fellowship; interviews were already conducted in February, 2018; the 1st respondent-writ petitioner was required to write the examination; in fact, she had applied for, and had secured a hall ticket; but had failed to qualify in the examination; and she was now turning around to contend that she need not appear and qualify in the examination at all.

The Learned Single Judge, thereafter, observed that, since the issue whether candidates like the 1st respondent-writ petitioner would be required to appear for the examination or whether they could directly appear for the interview conducted by the selection committee, required detailed examination. The appellants (respondents 2 and 3 in the writ petition) were directed to conduct interview for the 1st respondent-writ petitioner, for admission into the Ph.D programme (full time), provided she was otherwise qualified, however, without insisting on the requirement of appearing for and qualifying in the examination.

Before us Sri V.Ramchander Goud, learned counsel for the appellants (respondents 2 and 3 in the writ petition), would submit that neither the JNTU Regulations nor the UGC Regulations permit

a candidate, who has been selected for DST INSPIRE fellowship, to be exempted from appearing in the written examination; it is because the 1st respondent-writ petitioner was not entitled for such an exemption, was she required to appear in the written examination; she had, in fact, appeared in the written examination but had failed to qualify; having failed to qualify in the written examination, the 1st respondent-writ petitioner then filed this writ petition contending that her being granted DST INSPIRE fellowship exempted her from the requirement of having to appear in the written examination; and the Learned Single Judge, even without noticing the Regulations in this regard, had erroneously permitted the 1st respondent-writ petitioner to appear in the interview, though she was not successful in the written examination.

Para (5.2) of the UGC Regulations, prior to its amendment, read as under:

“5.2 Category 2: Candidates with Government Fellowship (Full Time)

Candidates who are qualified at the UGC-CSIR/NET examination, awarded with a Research Fellowship (for a minimum of two years) by UGC/CSIR/ICMR/DBT/etc. Government Organisation may be exempted from JNTUH written test for Ph.D admissions. However they should appear for the interview conducted by selection committee of JNTUH.

The candidates with ICSSR/RGNF/MANF/NIN-JRF or SRF awarded by national level bodies/institutes having NET/APSET & Ph.D eligibility test qualification also are admitted directly to the Ph.D programme. However they should appear for the interview conducted by selection committee of JNTUH.”

Thereafter, the University Grants Commission framed the University Grants Commission (Minimum Standards and Procedure for Award of M.PHIL/PH. Degrees) Regulations, 2016 which were notified on 05.05.2016. Regulation (5) thereof deals

with the procedure for admission; and Regulation (5.1) reads as under:

“5.1 All Universities and Institutions Deemed to be Universities shall admit M.Phil/Ph.D students through an Entrance Test conducted at the level of Individual University/Institution Deemed to be a University. The University/Institution Deemed to be a University may decide separate terms and conditions for Ph.D Entrance Test for those students who qualify UGC-NET (including JRF)/UGC-CSIR NET (including JRF)/SLET/GATE/Teacher fellowship holder or have passed M.Phil programme. Similar approach may be adopted in respect of Entrance Test for M.Phil programme.”

Following the UGC Regulations, the JNTU amended its Regulations by proceedings dated 12.09.2017. The admission process, as stipulated thereunder, reads thus:

“Entrance Test will be conducted for those who are shortlisted after scrutiny subject-wise by the office of the Directorate of Admissions. The minimum qualifying marks in the entrance test is 50% in case of Open Category candidates, 45% in case of B.C candidates and 40% in case of SC/ST candidates. The University has decided to give exemption from Entrance Test conducted by JNTUH for those students who qualified in UGC-NET/UGC-CSIR NET/SLET/GATE/Teacher fellowship holder or who have passed M.Phil. programme, as per UGC 2016 guidelines.”

It is evident from the aforesaid Regulations that it is only candidates, who have qualified in the UGC-NET/UGC-CSIR NET/SLT/GATE/Teacher fellowship or M.Phil. programme as per UGC Guidelines, who are exempted from appearing in the entrance examination to be conducted by the appellants. The Regulations do not provide any exemption for a candidate who has been selected for DST INSPIRE fellowship. In the light of these Regulations, and as the Regulations do not provide any exemption, for a candidate who has been selected for DST INSPIRE fellowship, to appear in the written examination, the 1st respondent-writ petitioner could

not have been permitted to appear for the interview straight away, more so when she had earlier appeared in the written examination, and was found unsuccessful. It is only if the Learned Single Judge had come to the *prima facie* conclusion that the Regulations enabled a candidate, selected for DST INSPIRE fellowship, to be exempted from appearing in the written examination, could he then have directed the appellants (respondents 2 and 3 in the writ petition) to permit the 1st respondent-writ petitioner to appear in the interview.

The Learned Single Judge has, in the order under appeal, observed that the question whether such candidates are required to appear in the written examination required detailed examination later and, yet, directed the appellants (respondents 2 and 3 in the writ petition) to permit the 1st respondent-writ petitioner to appear for the interview. The order under appeal, permitting the 1st respondent-writ petitioner to appear for the interview though she was unsuccessful in the written examination, and in directing that she be interviewed without insisting on her appearing in the written examination, is *prima facie* in violation of the afore-extracted statutory Regulations.

The order under appeal must therefore be and is, accordingly, set aside. Needless to state that the Writ Petition shall be heard on its merits without being influenced by any observations made by us in this order.

The Writ Appeal is disposed of accordingly. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(J.UMA DEVI, J)

05th June, 2018
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AND
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Date: 05.06.2018

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