

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.34948 OF 2018

ORDER:

This petition is filed for a writ of *Mandamus* declaring the action of the 2nd respondent in not implementing Section 32 of the Rights of Persons With Disabilities Act, 2016 for P.hd. course for the academic year 2018-2019, as illegal and arbitrary and for a consequential direction to the 2nd respondent, forthwith, to implement the said Act for admissions into P.hd. Agricultural courses by 5% reservation quota to the differently abled persons as per Section 32 of the said Act.

Learned counsel for respondents relied on the Judgment of Supreme Court in ***Dhananjay Malik and Others v. State of Uttaranchal and others (2008) 4 Supreme Court Cases 171***, wherein at paras 7 and 8 it is held as follows;

“7. It is not disputed that the respondent-writ petitioners herein participated in the process of selection knowing fully well that the educational qualification was clearly indicated in the advertisement itself as BPE or graduate with diploma in Physical Education. Having unsuccessfully participated in the process of selection without any demur they are estopped from challenging the selection criterion inter alia that the advertisement and selection with regard to requisite educational qualifications were contrary to the Rules.

8. In ***Madan Lal v. State of J&K (1995) 3 SCC 486*** this Court pointed out that when the petitioners appeared at the oral interview conducted by the

members concerned of the commission who interviewed the petitioners as well as the contesting respondents concerned, the petitioners took a chance to get themselves selected at the said oral interview. Therefore, only because they did not find themselves to have emerged successful as a result of their combined performance both at written test and oral interview, they have filed writ petitions. This Court further pointed out that if a candidate takes a calculated chance and appears at the interview, then, only because the result of the interview is not palatable to him, he cannot turn round and subsequently contend that the process of interview was unfair or the Selection Committee was not properly constituted.”

But, the learned counsel for the petitioner relied on Section 32 of The Rights of Persons With Disabilities Act, 2016 wherein it provides as follows;

“32. Reservation in higher educational institutions:-
(1) All Government institutions of higher education and other higher education institutions receiving aid from the Government shall reserve not less than five per cent seats for persons with benchmark disabilities.”

Now admittedly, selections for admission into P.hd. courses are over and petitioner participated in the selection process. But, the petitioner without challenging the notification for admission into P.hd. courses, filed the present writ petition. Further, selected candidates are not before this Court.

It is not known why the said directive is not followed by the 2nd respondent. But, for implementation of Section 32 the Act, University should have taken necessary steps. Just because the State Government has not issued G.O. it does not mean that Section 32 of the Act cannot be implemented. But the fact remains that the petitioner has approached this Court after entire selection process is over. As such, no relief can be granted. But, the 2nd respondent University as well as the State Government to take steps for implementation of Section 32 of the Rights of Persons With Disabilities Act, 2016 for the next academic year.

Accordingly, the writ petition is disposed of. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

A.RAJASHEKER REDDY, J

10-10-2018.
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