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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 13777/2018**

MOHD ARIF AHMED

..... Petitioner

Through: Mr.Sunil Kumar, Adv. with Mr.Yogesh
Kumar Sharma, Adv.

Versus

JAMIA MILLIA ISLAMIA & ANR

..... Respondents

Through: Ms.Zeba Khan, Adv. for R-1.

Mr.Anil Soni, CGSC with Mr.Abhinav Tyagi,
Adv. for R-2.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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19.12.2018

1. The petitioner claiming to be a public spirited person and a research scholar at Maulana Mohammad Ali Johar Academy of International Studies, Jamia Milia Islamia (JMU), belonging to a scheduled tribe (Gujjar Bakerwal) community from Jammu and Kashmir has called in question the tenability of Clause 1 (e) of circular bearing No.AC-8/(19)2011 issued by the JMU more than 7 years back on 26th May, 2011 wherein 10% of the seats are jointly reserved for Muslim ST and Muslim OBC category. The impugned provision of the circular, that is, Clause 1(e) reads as under:-

“1. While preparing the list of candidates called for interview and the list of candidates selected for admissions, the following should be followed:

(a) to (d) xxx xxx xxx

(e) 10% of the seats are jointly reserved for Muslim ST and Muslim OBC. No further division of this 10% to be made.”

2. It is the case of the petitioner that a Muslim ST and Muslim OBC form two different categories under Articles 15 and 16 of the Constitution and clubbing of these two categories for the purpose of granting benefit of reservation is unconstitutional. It is stated that the Scheduled Caste are treated as separate class under Article 342 of the Constitution and OBCs are also treated as a separate class under the State by every State legislature and the Central Government. *Inter alia* contending that the respondent should be directed to provide separate quota for Muslim OBC and Muslim ST and clubbing together as contemplated in the circular is unsustainable, this writ petition has been filed.

3. Having considered the submissions, we find that the reservation policy was implemented in 2011 and was issued based on the guidelines of the University in order to prepare the list of candidates to be called for interview and for preparing final list of selected candidates for admission in the session 2011-12. It is stated that the circular is still being implemented which is unconstitutional. Apart from the fact that the petitioner is not an aggrieved person, the fact remains that the circular is in operation for a period of 7 years and none of the aggrieved persons seeking admission has challenged the said circular before us. After such a long period of time, that also when the circular indicates that it was for selection of the candidates for admission in Session 2011-12, at the instance of the petitioner now in a public interest litigation, we are not inclined to interfere into the matter. However, in case any aggrieved person seeking admission has any grievance with regard to enforcement of the circular even today. It is for them to challenge the same. At the instance of the petitioner with the facts as

detailed hereinabove, we see no reason to make an indulgence into the matter.

4. The petition is accordingly dismissed.

CHIEF JUSTICE

V. KAMESWAR RAO, J

DECEMBER 19, 2018
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