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

+ LPA 107/2019 & CM APPLs. 6968-70/2019

UNIVERSITY OF DELHI

..... Appellant

Through: Mr. Amit Bansal with Ms. Seema
Dolo, Advs.

versus

AVINASH KUMAR & ORS

..... Respondents

Through: None.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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15.02.2019

CM APPLs. 6969/2019 (*exemption*) **& 6970/2019** (*exemption*)

Allowed, subject to just exceptions.

Both the applications stand disposed of.

LPA 107/2019 & CM APPL. 6968/2019 (*stay*)

1. Seeking exception to an order dated 10.12.2018 passed by the learned writ court in W.P.(C) 3033/2017, University of Delhi has filed this appeal under Clause 10 of the Letters Patent.
2. Seeking re-evaluation of his dissertation submitted in Term-IV examination for LL.M. course conducted by the Delhi University and *inter alia* contending that he has only been awarded 102 marks out of 200 for the paper in question, the writ petition was filed raising various grounds of mala fides, irregularity, etc. in the evaluation of the dissertation.

3. The learned writ court in extenso went into various questions and even though found that the allegations of mala fide have not been established and did not interfere into the matter on such grounds, after taking note of certain legal principle that normally in the absence of there being any statutory provision available, re-evaluation of answer sheets or examination paper should not be permitted, found that in this case evaluation of the dissertation for the LL.M. course has been undertaken by a faculty member who was an *ad hoc* appointee, not a regular faculty member and was only teaching LL.B. classes and, in fact, had never taught LL.M. classes or had undertaken teaching with regard to LL.M. curriculum in the Institute in question. It was also found that normally in the matters of rules laid down by the University Grant Commission for evaluation of dissertation of M.Phil. students one of the conditions is that the supervisor of the student and an independent examiner should form the evaluation team. In this case, after taking note of all these factors, it was held by the learned writ court that it is unable to discern and approve the pressing exigency that necessitated selection of an *ad hoc* teacher, involved in teaching LL.B. students to evaluate the petitioner's fourth semester LL.M. dissertation and therefore conscious of various limitations in Paras 25, 26 and 27, after making the aforesaid observation, the direction issued was to re-evaluate the petitioner's dissertation paper either by an independent committee or by a faculty member who has taught LL.M. students and who is competent or conversant with the LL.M. course, its content, syllabus and curriculum.

4. In our considered view, the aforesaid discretion exercised by the learned writ court for reasons as are detailed hereinabove in exercise of its extraordinary jurisdiction has been undertaken in the peculiar facts and

circumstances of the case. It does not have the effect of laying down a law or precedent. It has been undertaken in the facts of the present case only to ensure justice to the petitioner and, in our considered view, the reasons and the justification given by the learned writ court for doing so cannot be termed as erroneous or illegal to such an extent that interference into the matter now by this Court is called for.

5. Finding the approach of the learned writ court, in the facts and circumstances of the case, to be reasonable, we find no reason to make any indulgence into the matter. The appeal stands dismissed. The pending application also stands disposed of accordingly.

CHIEF JUSTICE

V. KAMESWAR RAO, J

FEBRUARY 15, 2019
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