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

+ **LPA 183/2019**

AKHIL BHARTIYA VIKLANG , VIDHWA, VARDHA SEWA

SIMITI(REGD) Appellant

Through: Ms. Kanika Kalyom, Advocate with
Mr. Rajesh Kr. Yadav, Advocate.

versus

VIKRAM UNIVERSITY & ORS Respondents

Through: Mr. Shree Prakash Sinha, Advocate
with Ms. Marina Wheeler, Advocate
for R-1 and R-2.

Mr. Manish Kumar, Advocate with
Mr. Piyush Kaushik, Advocate for
R-3.

R-4 in person.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE I.S.MEHTA

ORDER

% 18.03.2019

CM APPL. 12366/2019

1. Exemption allowed, subject to all just exceptions.

LPA 183/2019 & CM APPL. 12365/2019 (for Stay)

2. Notice. Mr. Shree Prakash Sinha, Advocate for Respondent Nos.1 and 2
and Mr. Piyush Kaushik, Advocate for R-3 accept notice. Respondent No.4
who appears in person accepts notice.

3. This is an appeal by the Akhil Bhartiya Viklang, Vidhwa, Vardha Seva

Samiti (Regd.) through its Director. It is directed against an order dated 8th January 2018 passed by the learned Single Judge, dismissing the Appellant's intervention application, C.M. No. 43136/2018 in W.P. (C) 10989/2015.

4. The said writ petition was originally filed by Respondent No.4 before the High Court of Madhya Pradesh at Indore as W.P.(S). No.4665/2009. The challenge by Respondent No. 4 in the said writ petition was to the appointment of Respondent No.3 in the School of Studies and Environment Management of the Vikram University at Ujjain, which is Respondent Nos.1 and 2. The case of Respondent No.4, who is physically challenged, was *inter alia* that there should have been reservation of the post for persons with disability.

5. Respondent No.4 also filed a separate W.P. 1275/2012 in the High Court of Madhya Pradesh at Indore, whereby he challenged the termination of his services by the Vikram University, on the basis of the complaint made against him of sexual harassment.

6. While both the writ petitions were pending, Respondent No.4 filed Transfer Petition (Civil) 1736-1737/2013 in the Supreme Court of India. By an order dated 27th July 2015, the Supreme Court directed both W.P. (S) 4665/2009 as well as 1275/2012 to be transferred to this Court.

7. Upon transfer to this Court, W.P. 1275/2012 then got renumbered as W.P. (C) 9999/2015. By an order dated 8th January 2019 in CM No.3217/2019 by Respondent No.4, the learned Single Judge permitted Respondent NO.4 to

withdraw the said writ petition with liberty to file a fresh petition with additional documents referred to in the said application.

8. Respondent No.4 is present in person states that he would be shortly filing a fresh writ petition.

9. As far as the W.P.(C) 4665/2009, which was transferred to this Court from the High Court of Madhya Pradesh at Indore, it was, as already noticed, re-numbered as W.P.(C) 10989/2015.

10. The present appellant, which is an organization for the welfare and support and protection of rights of the disabled persons, widows and old age/senior citizens, filed an application seeking intervention in the said W.P.(C) 10989/2015. In the application, the Appellant referred to various Government circulars and notifications. The said application along with W.P.(C) 10989/2015 was listed before the learned Single Judge on 8th January 2019 with two other applications. Without discussing the facts on each of the applications, the order passed was “all the applications are dismissed in view of the order passed by the Hon’ble Supreme Court in transfer Writ Petition (Civil) No.1736-37/2013”.

11. The Court finds that the order dated 27th July 2015 of the Supreme Court in the aforementioned transfer writ petitions only discussed the facts of the two writ petitions referred to hereinbefore, which had been filed by Respondent No.4 before the High Court of Madhya Pradesh at Indore. A reading of the said order in no way indicates that the Supreme Court had

expressed a view that no intervention applications in the said writ petitions would be entertained after they were transferred to this Court.

12. It requires to be noticed that the intervention application was filed only on 1st October 2018, which is subsequent to the order dated 27th July 2015 passed by the Supreme Court. Consequently, this Court fails to appreciate that how the said intervention application could have been dismissed by the learned Single Judge in view of the order of the Supreme Court.

13. One course of action available to this Court, while setting aside the impugned order passed by the learned Single Judge, would be to revive the application filed by the present Appellant before the learned Single Judge for disposal on merits. However, since all the Respondents in the present appeal have already entered appearance, with their consent the appeal itself was heard by this Court.

14. The short point involved is whether the Appellant organization which represents the interests of disabled persons be allowed to intervene in the aforementioned writ petition filed by Respondent No.4, who himself is a disabled person?

15. Counsel appearing for Respondent No.3 fiercely resisted in the intervention by the present Appellant stating that the issue involved in W.P.(C)10989/2015 did not concern the disability of Respondent No.4.

16. It is seen that the challenge by Respondent No.4 to the appointment of

Respondent No.3 in the said writ petition is on several grounds. The question whether there should have been a reservation for the post for a person with disability is one of the issues that arises for consideration in the said writ petition. In that view of the matter, the intervention sought by the present Appellant cannot be said to be unwarranted.

17. For the aforementioned reasons, the Court sets aside the impugned order dated 8th January 2019 passed by the learned Single Judge dismissing the CM.APPL. 43136/2018 filed by the present Appellant. The said application is treated as allowed by virtue of the present order. The Appellant will be permitted to intervene and address arguments in W.P. (C) 10989/2015 in support of Respondent No.4, who is the Petitioner in the said Petition. The Court clarifies that it has not expressed any opinion on the merits of the contentions of any of the parties including the intervener in the above writ petitions. It will be open to the parties to request the learned Single Judge for permission to file any further affidavits or documents.

18. The appeal and application are disposed of in the above terms.

S.MURALIDHAR, J.

I.S.MEHTA, J.

MARCH 18, 2019
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