

MAT 750 of 2024
with
IA No. CAN 1 of 2024

Vidyasagar University
Vs.
Arindam Gupta & Ors

Mr. Joydeep Kar, Ld. Sr. Adv
Ms. Debjanii Sengupta
Ms. Shalina Haque
Mr. Abhijit Chatterjee
Ms. Jonaki Kuan

....For the Appellant.

Ms. Susmita Saha Dutta
Mr. Goutam Bhakat
Mr. Niladri Saha
Ms. Madhurima Basu

....For the Respondents No. 1.

Mr. K.J. Yusuf
Mr. Arindam Ghosh

....For the State.

The present appeal has been preferred challenging an order dated 4th April, 2024 passed by the learned Single Judge in a writ petition being WPA 25176 of 2023.

Mr. Kar, learned senior advocate appearing for the Vidyasagar University (hereinafter referred to as the University), the appellant herein, submits that the learned Single Judge erred in law in directly issuing a direction upon the University to appoint the writ petitioner/respondent no.1 herein as the temporary Dean and as a consequence thereof, the University's right to select a suitable candidate for the post of temporary Dean, as conferred by the provisions of Section 5(9) of the West Bengal University Laws

(Amendment) Act, 2012 (hereinafter referred to as the 2012 Rules) had been rendered futile. Furthermore, no prayer for issuance of any such direction upon the University was even prayed for by the respondent no.1 in the writ petition. The right to 'select' includes seniority and other riders necessary for formation of an opinion towards such selection. In support of such argument, reliance has been placed upon judgments delivered in the cases of *Ram Murti Singh – vs- District Inspector of Schools, Deoria*, reported in (1995) Supp. 3 SCC 170 and *Government of A.P.- vs- A.V. Venugopala Rao*, reported in (1995) 1 SCC 179.

Drawing out attention to the provisions of Section 5(9) of the 2012 Act, Mr. Kar argues that the right to select 'a seniormost Professor' gives a scope of consideration of some seniormost Professors of the respective Faculty and the words 'according to the date of their joining in the same University', need to be construed as seniority of the candidates from their respective dates of joining in the University. Admittedly, the respondent no. 8 joined the University much prior to the respondent no. 1, as would be explicit from the document annexed at page 103 of the stay application. Thus, the respondent no. 8 was selected in strict consonance with the provisions of Rule 5(9) and such selection is neither arbitrary nor illogical. As the reasoning towards selection of the respondent no.8 is a plausible one, the learned Single

Judge ought not to have interfered with such decision. Such arguments, as advanced, before the learned Single Judge were glossed over and no finding was returned on the same.

Per contra Ms. Saha Dutta, learned advocate appearing for the respondent no.1 submits that the provisions of Section 5(9) of the 2012 Act need to be considered together and not in isolation. A particular clause cannot be taken up and highlighted. A composite reading of the said Rule leaves no doubt that the date of assuming the post of Professor was only relevant in determining seniority. There cannot be any arbitrary selection by unfettered discretion. Reliance has been placed upon a judgment delivered in the case of *State of Jammu and Kashmir and others - vs. - Shaheena Masarat and another*, reported in (2021) 13 SCC 304.

Drawing our attention to the prayers of the writ petition, she contends that the respondent no.1 prayed for a specific direction upon the University towards grant of appointment to the writ petitioner. In the said conspectus, the learned Single Judge rightly discounted the contention of the University observing, *inter alia*, that the *inter se* seniority amongst the Professors is determined only from the date they assume the position of a Professor.

We have heard the learned advocates appearing for the respective parties at length and we have given our

anxious consideration to the facts and circumstances of the case.

It is well known that a decision is an authority for what it decides and not what can logically be deduced therefrom. Even a slight distinction in fact or an additional fact may make a lot of difference in decision making process. The judgment is a precedent for the issue of law that is raised and decided and not observations made in the facts of any particular case. It has not been the contention of the University that the respondent no.1 was ineligible or his selection would be arbitrary and detrimental to the interest of the University and as such the judgments delivered in the cases of *Ram Murti Singh (supra)* and *Government of A.P. (supra)* are distinguishable on facts and have no manner of application in the instant case.

While interpreting a statutory construction, the Court looks at the plain language of the statute to determine its meaning as well as the purpose and intent behind the statute. When a statute uses specific words, in the instant case, the words - '*a senior-most professor*' followed by general words, in the instant case, the words - '*the date of their joining in the same University*', the general words will have to be given a restricted meaning limited to the same class or genus as the specific words.

The learned Single Judge upon dealing with all the factual issues, arrived at specific findings and we do

not find any error, least to say any patent error of law in the order impugned.

In view thereof, no interference is called for in the present appeal.

The appeal and the connected application are, accordingly, dismissed.

There shall, however, no order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Apurba Sinha Ray,J.)

(Tapabrata Chakraborty,J.)