

Board of Intermediate Educati Vs. K.Prakash and Othe

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Court : Andhra Pradesh

Decided On : Aug-11-2014

Judge : The Hon'Ble Sri Justice L.Narasimha Reddy and the Hon'Ble Sr

Appellant : Board of Intermediate Educati

Respondent : K.Prakash and Othe

Advocate for Def. : Smt. Akella Padma Counsel

Judgement :

THE HONBLE Sr.JUSTICE L.NARASIMHA REDDY AND THE HONBLE Sr.JUSTICE T.SUNIL CHOWDARY W.A.No.1129 of 2014 11-08-2014 Board of Intermediate Education.Appellant K.Prakash and others.Respondents Counsel for the appellant: Smt.

Akella Padma Counsel for respondent No.1: Sr.M.Panduranga Rao Counsel for respondents 2 and 3: G.P.for Higher Education Counsel for respondent No.4: Sr.D.Kodandarama Reddy HEAD NOTE: ?.Cases referred: THE HONBLE Sr.JUSTICE L.NARASIMHA REDDY AND THE HONBLE Sr.JUSTICE T.SUNIL CHOWDARY W.A.No.1129 of 2014

JUDGMENT

: (Per LNR,J.Respondent No.4 is a Junior College, which is admitted to grant-in-aid.

The Post of Junior Lecturer in Zoology reserved for S.C.candidates remained unfilled and was carried forward.

After obtaining permission from the appellant, as required under the relevant provisions of law, an Advertisement was issued on 02.06.2004 inviting applications for the post.

The 1st respondent and several others submitted applications.

Interview, by the Selection Committee, constituted in accordance with law, was conducted on 24.06.2004.

The 1st respondent was selected and his name was recommended to the appointing authority.

The 4th respondent issued orders of appointment to the 1st respondent and forwarded the same to the appellant and respondents 2 and 3 for approval.

However, the appellant refused to accord approval through proceedings, dated 18.02.2008.

Challenging the same, the 1st respondent filed W.P.No.2042 of 2007.

He pleaded that he was selected by the selection committee and there was absolutely no basis for the appellant to refuse to accord approval.

In the counter affidavit filed by it, the appellant stated that though permission was accorded to fill the vacancy, the 4th respondent did not inform the employment exchange and thereby a serious lapse has crept in.

Learned Single Judge allowed the writ petition through order, dated 01.11.2013.

Hence this writ appeal.

Smt.Akella Padma, learned counsel for the appellant submits that giving of intimation to the employment exchange is necessary under the prescribed procedure and that not having been done, the selection of the 1st respondent cannot be said to be valid.

She contends that the learned Single Judge has ignored such a vital aspect and allowed the writ petition.

On the same lines are the arguments advanced on behalf of respondents 2 and 3.

Sr.M.Panduranga Rao, learned counsel for the 1st respondent on the other hand submits that on account of the hyper-technical objections being raised by the appellant from time to time, the post which is earmarked for S.C.remained unfilled.

He contends that in case there is any lapse, in the context of inviting applications, the representative of the appellant who is on the selection committee ought to have raised the issue and it was not open to them to refuse the approval, once the candidate was selected in accordance with law.

The appellant, which totally blinks at mushrooming of private institutions, even in flats and in narrow lanes and does not even dare to appoint the examiners for such institutions, becomes hyper active, whenever the issue pertaining to appointment of lecturers in Government or aided institutions arises.

The very fact that the post of Lecturer in Zoology was carried forward discloses that the objections of one type or the other were raised for filling up of the same.

It is only on being accorded permission by the appellant that the 4th respondent issued notification on 04.06.2004.

Though employment exchange used to be the only source for sponsoring candidates few years ago, for all practical purposes, the registration with the employment exchange has become redundant, wherever the procedure provides for issuance of notification.

Once a notification is issued, not only those who get themselves registered with the employment exchange, but also others can apply.

No distinction exists in law on the basis of mere registration in the employment exchange.

There are several precedents handed out by the Supreme Court, which are to the effect that the employment exchanges are no longer the exclusive sources for drawing the candidates for employment.

The paragraph, which deals with the giving of intimation to the employment exchange, has been extracted by the learned Single Judge in the order.

It is couched in permissive terms and hardly there exists any element of compulsion in it.

At any rate, not a single candidate let alone the employment exchange or any organization has complained that on account of failure to furnish information to the employment exchange, the eligible candidates did not have any opportunity to apply.

In fact, it is the other way.

The publication of notifications enables the eligible candidates to apply.

Assuming that there was any lapse in the process of inviting applications, the representative of the appellant who is very much on the selection committee ought to have raised the objection.

It is only when the selection was made and order of appointment was issued that the appellant raised the objection at the stage of according approval.

If one takes into account the typical red-tapism or lopsided functioning of the Board, which has only encouraged the handful of private educational institutions to establish their monopoly, the conduct of the appellant in refusing to accord approval does not astonish anyone.

We do not find any merits in the writ petition.

There fore, the writ appeal is dismissed.

We specifically direct that the appointment of the 1st respondent shall be approved with effect from the date on which the proposal was submitted and he shall be

extended all the monetary benefits.

The miscellaneous petition filed in this writ appeal shall also stand disposed of.

There shall be no order as to costs.

_____ L.NARASIMHA REDDY, J _____
T.SUNIL CHOWDARY, J Date: 11.08.2014

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