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Dr. Bindu Kumar vs State of Kerala

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Court : Kerala

Decided On : Oct-19-2023

Judge : Honourable Mr. Justice a.Muhamed Mustaque,Honourable Mrs. Justice Shoba Annamma Eapen

Appeal No. : OP(KAT)/472/2023

Appellant : Dr. Bindu Kumar

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE & THE HONOURABLE MRS. JUSTICE SHOBA ANNAMMA EAPEN THURSDAY, THE 19TH DAY OF OCTOBER 2023 / 27TH ASWINA, 1945 OP(KAT) NO.472 OF 2023 AGAINST THE ORDER/JUDGMENT O.A.No.122/2023 OF KERALA ADMINISTRATIVE TRIBUNAL, THIRUVANANTHAPURAM RA 14/2023 OF KERALA ADMINISTRATIVE TRIBUNAL, THIRUVANANTHAPURAM ----- PETITIONER: DR.BINDU KUMAR, AGED 48 YEARS, S/O.KARTHIKEYAN P.N., PROFESSOR IN MECHANICAL ENGINEERING, GOVERNMENT ENGINEERING COLLEGE, BARTON

HILL, THIRUVANANTHAPURAM - 695035, RESIDING AT GAYAM, MRA T16, CHENNESERY LANE, MARUTHANKUZHY, THIRUVANANTHAPURAM, KERALA, PIN - 695030. BY ADVS. BENNY GERVACIS ABI BENNY AREECKAL BEA MARY BENNY RESPONDENTS: 1 STATE OF KERALA, REPRESENTED BY ITS PRINCIPAL SECRETARY, HIGHER EDUCATION DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, KERALA, PIN - 695001. 2 THE DIRECTOR OF TECHNICAL EDUCATION, DIRECTORATE OF TECHNICAL EDUCATION, PADMA VILASOM ROAD, FORT P.O., THIRUVANANTHAPURAM, KERALA, PIN - 695023. O.P.(KAT) No. 472/2023 2 3 BINDU G.R., AGED 56 YEARS D/O.S.P. GOPAKUMAR, PROFESSOR IN DEPARTMENT OF ELECTRICAL ENGINEERING, COLLEGE OF ENGINEERING, THIRUVANANTHAPURAM, RESIDING AT SURABHI, T.C.23/1356(1) OPPOSITE SKYLINE MASSIONS, KOWDIAR GARDENS A, GOLFLINKS ROAD, KOWDIAR P.O., THIRUVANANTHAPURAM - KERALA, PIN - 695003 BY SENIOR GOVERNMENT PLEADER, SRI.A.J.VARGHESE THIS OP KERALA ADMINISTRATIVE TRIBUNAL HAVING BEEN FINALLY HEARD ON 19.10.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: O.P.(KAT) No. 472/2023 3

J U D G M E N T

A.Muhamed Mustaque, J.

This original petition was filed challenging the orders of the Kerala Administrative Tribunal. The matter is related to the appointment of Principal in the Government Engineering College. The challenge made by the petitioner originally was dismissed holding that the petitioner has no locus standi on the ground that the petitioner did not apply for the post. The petitioner filed a review petition. In that, the Tribunal noted that the petitioner in fact is an applicant. However, the Tribunal noted the contention of the respondents that the petitioner does not possess the qualification. Ultimately. the Tribunal declined to interfere with the matter noting

that this cannot be a subject matter of the review petition and the petitioner's remedy is to challenge the earlier order in a higher forum. This is how the petitioner approached this Court.

2. It is to be noted that the original application itself was dismissed holding that the petitioner has no locus standi. In the order in review petition itself, it is noted that the petitioner had submitted an application.

Therefore, earlier finding that the petitioner has no locus standi is unsustainable. O.P.(KAT) No. 472/2023 4 Anyway, now it is stated at the Bar by the learned counsel for the petitioner as well as the learned Government Pleader that the selection process is concluded and the third respondent has been appointed along with others. That be so, if the petitioner is able to point out that the selection itself is illegal, he is given liberty to challenge the same. The petitioner can very well challenge the selection and appointment of any other

candidate making them a party array. We leave open the issue. The original petition is disposed of with the above observations. Sd/- A.MUHAMED MUSTAQUE JUDGE Sd/- SHOBA ANNAMMA EAPEN JUDGE ln O.P.(KAT) No. 472/2023 5 APPENDIX OF OP(KAT) 472/2023 PETITIONER'S ANNEXURES: ANNEXURE A1 TRUE COPY OF THE EXTRAORDINARY GAZETTE NOTIFICATION NO. 82 DATED 1-3-2019 F. NO. 61- 1/RIFD/7TH CPC/2016-17) PERTAINING TO ALL INDIAN COUNCIL FOR TECHNICAL EDUCATION (AICTE).

ANNEXURE A2 TRUE COPY OF THE JUDGMENT PASSED BY THE HONOURABLE SUPREME COURT IN JUDGMENT DATED 28-4-2016 IN CIVIL APPEAL NO. 4502 OF 2016. ANNEXURE A3 TRUE COPY OF G.O. (RT) NO. 1538/2022/HEDN DATED, THIRUVANANTHAPURAM 19-10-2022 ISSUED BY THE FIRST RESPONDENT. ANNEXURE A4 TRUE COPY OF THE CIRCULAR NO. EA SECOND RESPONDENT. ANNEXURE A5 TRUE COPY OF THE JUDGMENT OF HONOURABLE HIGH COURT OF KERALA IN O.P. (KAT) NO. 250/2020 AND CONNECTED CASES DATED 3-12- 2020. ANNEXURE R1(A) TRUE COPY OF LETTER NO. KTU/ASSISTANT VCS2/5217/2022 DATED 27-09-2022 OF THE VICE CHANCELLOR OF APJ ABDUL KALAM TECHNOLOGICAL

UNIVERSITY. ANNEXURE R1(B) TRUE COPY OF THE LETTER NO. KTU/ASSISTANT/VCS2/5217/2022 DATED 3-10-2022. ANNEXURE 8 TRUE COPY OF THE ORDER PASSED BY THE HON'BLE ADMINISTRATIVE TRIBUNAL IN O.A. 122/2023 DATED 8TH FEBRUARY, 2023. ANNEXURE RA2 A TRUE COPY OF THE APPLICATION ALONG WITH THE

RECOMMENDATION FORWARDED BY THE PRINCIPAL-IN- CHARGE, GOVERNMENT ENGINEERING COLLEGE, BARTON HILL, THIRUVANANTHAPURAM WITH NO. E2/686/23/G.E.C.B.H. DATED 21-01-2023.

ANNEXURE RA 3 TRUE COPY OF THE ORDER NO. G.O. (RT) NO. O.P.(KAT) No. 472/2023 6 1ST RESPONDENT. ANNEXURE RA(4) TRUE COPY OF THE FILE NOTE EXTRACTS RECEIVED BY THE PETITIONER UNDER THE RTI ACT AND THE COVERING LETTER FORWARDING THE SAME. ANNEXURE RA(5) TRUE COPY OF THE JUDGMENT OF THE HON'BLE SUPREME COURT IN CIVIL APPEAL NO. 7634- ANNEXURE RA(6) TRUE COPY OF REVIEW PETITION (C) NOS. 1442- 1443 OF2022 DATED 07.12.2022. ANNEXURE R2(A) TRUE COPY OF GOVERNING BODY OF COLLEGE OF ENGINEERING, TRIVANDRUM. ANNEXURE R2(B) TRUE COPY OF EXTRACT OF THE RELEVANT PAGE I.E. APPENDIX 18 OF THE AICTE REGULATIONS. ANNEXURE RA 7 TRUE COPY OF THE PH.D. DEGREE AWARDED TO THE APPLICANT FROM THE PRESTIGIOUS LOUGHBOROUGH UNIVERSITY. ANNEXURE RA8 TRUE COPY OF THE MASTER OF TECHNOLOGY (M.TECH) RECEIVED BY THE APPLICANT FROM IIT MADRAS WITH 8.87/10 DATED 9-08-2023 ANNEXURE RA 9 TRUE COPY OF THE CERTIFICATE OF REGISTRATION OF DESIGN ISSUED FROM THE GOVERNMENT OF INDIA THE PATENT OFFICE WITH NO. 12282 DATED 29-09- 2022. ANNEXURE RA 9(A) TRUE COPY OF THE CERTIFICATE OF REGISTRATION OF DESIGN ISSUED FROM THE GOVERNMENT OF INDIA THE PATENT OFFICE WITH NO. 125169 DATED 31- 10-2022. ANNEXURE RA9(B) TRUE COPY OF THE PUBLICATION OF THE PATENT OFFICE DATED 26-08-2022. ANNEXURE RA9(C) TRUE COPY OF THE PUBLICATION OF THE PATENT OFFICE DATED 12-08-2022. ANNEXURE RA10 TRUE COPY OF THE JOURNAL PUBLISHED IN O.P.(KAT) No. 472/2023 7

PROCEEDINGS OF THE INSTITUTION OF MECHANICAL ENGINEERS, PART E; JOURNAL OF PROCESS MECHANICAL ENGINEERING WITH DOI. 10.1177/09544089221150714 ANNEXURE RA 10(A) TRUE COPY OF THE JOURNAL PUBLISHED IN PROCEEDINGS (MEEH E PART) JOURNAL OF ENGINEERING TRIBOLOGY 2021;235(6):1085-L 092 WITH DOI:10.1177/1350650120945074 ANNEXURE RA 10(B) TRUE COPY OF THE JOURNAL PUBLISHED IN PROCEEDINGS (MECHE PART) JOURNAL OF ENGINEERING TRIBIOLOGY 2020 VOL. 234(2) 292-

300. WITH DOI.10.117/1350650119864466. ANNEXURE RA 10(C) TRUE COPY OF THE JOURNAL PUBLISHED IN INTERNATIONAL JOURNAL OF SCIENTIFIC AND ENGINEERING RESEARCH (USER) VOLUME 7, ISSUE 1, JANUARY - 2016, ISSN 2229-55187 ISSN.2229- 5518. ANNEXURE RA 10(D) TRUE COPY OF THE JOURNAL PUBLISHED IN INTERNATIONAL JOURNAL OF ADVANCED RESEARCH IN ENGINEERING AND TECHNOLOGY (I)ARET, VOLUME 4, ISSUE 5, JULY - AUGUST 2013, PP.207- 217.CORPUS ID 138527195. ANNEXURE RA 10(E) TRUE COPY OF THE JOURNAL PUBLISHED IN INTERNATIONAL JOURNAL OF ENGINEERING AND ADVANCED TECHNOLOGY (I)EAT), VOLUME - 2, ISSUE-6, AUGUST 2013, -PP 202-207 ISSN:2249- 8958. ANNEXURE RA 10(F) TRUE COPY OF THE JOURNAL PUBLISHED IN INTERNATIONAL JOURNAL OF MECHANICAL ENGINEERING & MATERIAL SCIENCE VOL.5 NO. 1 2012, PP.25-30 ISSN:0974-584X.

ANNEXURE RA 10(G) TRUE COPY OF THE JOURNAL PUBLISHED IN PROC. IMECHE VOL. 224 PART C. J. MECHANICAL ENGINEERING SCIENCE, 2009, DOI. 10.1243/09544062JMES1748. ANNEXURE RA 10(H) TRUE COPY OF THE JOURNAL PUBLISHED IN PROCEEDINGS OF ICETMIE 2022SINGAPORE:, :PP.96L- 969.DOI:HTTPS://DOI.ORG/L O.P.(KAT) No. 472/2023 8 0.1007/978-981-19-6945-4 72. ANNEXURE RA 11 TRUE COPY OF THE 4 INCUMBENTS PURSUING PH.D. UNDER THE SUPERVISION OF THE APPLICANT ISSUED FROM APJ ABDUL KALAM TECHNOLOGICAL UNIVERSITY. ANNEXURE RA 12 TRUE COPY OF THE COMMUNICATION FROM DIRECTOR

OF TECHNICAL EDUCATION TO PRINCIPAL SECRETARY TO GOVERNMENT FURNISHING THE DETAILS OF PROFESSOR APPLIED FOR THE SELECTION TO THE POST OF PRINCIPALS WITH NO.EAI/42823/2022/DTE DATED 20-2-2023 RECEIVED BY DIE REVIEW APPLICANT THROUGH RIGHT TO INFORMATION WITH NO. HEDN- G1/28/2023-HEDN- DATED 18-4-2023.

EXHIBIT P1 A TRUE COPY OF THE ORIGINAL APPLICATION O.A.NO. 122/2023 FILED BY THE PETITIONER. EXHIBIT P2 A TRUE COPY OF THE INTERIM ORDER DATED 23-1- 2023 IN O.A. NO. 122 OF 2023. EXHIBIT P3 THE REPLY STATEMENT FILED ON 08-02-2023 ON BEHALF OF THE FIRST RESPONDENT. EXHIBIT P4 MISCELLANEOUS APPLICATIONNO.285/2023 DATED 08-02-2023 FOR IMPLEADING FILED BY THE 3RD RESPONDENT. EXHIBIT P5 CERTIFIED COPY OF THE ORDER IN OA 122/2023 DATED 8TH FEBRUARY, 2023. EXHIBIT P6 REVIEW APPLICATION NO. 14 OF 2023 FILED BY THE PETITIONER HEREIN. EXHIBIT P7 A TRUE COPY OF THE STATEMENT FILED ON BEHALF OF THE 2ND RESPONDENT IN THE REVIEW APPLICATION. EXHIBIT P8 A TRUE COPY OF THE MISCELLANEOUS APPLICATION NO.515/2023 FILED BY THE PETITIONER HEREIN PRODUCING ADDITIONAL DOCUMENTS. EXHIBIT P9 A TRUE COPY OF THE MISCELLANEOUS APPLICATION NO. 1042/2023 FILED BY THE PETITIONER HEREIN O.P.(KAT) No. 472/2023 9 PRODUCING ADDITIONAL DOCUMENT. EXHIBIT P10 A TRUE COPY OF THE ORDER G.O.(RT)

NO.313/2023/HEDN DATED 06-03-2023 OF THE 1ST RESPONDENT PUBLISHING THE RANK LIST FOR APPOINTMENT AS PRINCIPALS GOVERNMENT ENGINEERING COLLEGES. EXHIBIT P11 A TRUE COPY OF THE APPOINTMENT ORDER OF PRINCIPALS, GOVERNMENT ENGINEERING COLLEGES, G.O.(RT)NO. 320/2023/HEDN DATED 06-03-2023 ISSUED BY THE 1ST RESPONDENT. EXHIBIT 12 A TRUE COPY OF THE APPOINTMENT & TRANSFER

ORDER OF PRINCIPALS, GOVERNMENT ENGINEERING

COLLEGES G.O.(RT) NO.477/2023/HEDN DATED 31- 03-2023 ISSUED BY THE 1ST RESPONDENT. EXHIBIT P13 CERTIFIED COPY OF THE ORDER DATED

24-08-2023 IN R.A. NO. 14 OF 2023.

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