

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.5972 OF 2013
[@ Special Leave Petition (C) No. 15527 of 2008]

NAJMUL SHAHI

Petitioner(s)

VERSUS

STATE OF KERALA & ORS.

Respondent(s)

O R D E R

Leave granted.

Having regard to the nature of order we propose to pass, keeping in view the peculiar circumstances, it is not necessary to fathom into the detailed factual matrix.

Suffice is to point out that the appellant herein was selected and appointed to the post of Lecturer in the Children's Theatre by Respondent No. 3 - University of Calicut. The said post was reserved for Muslim Community, to which category the appellant belongs to. The appointment was made in the year 2003. The academic qualification which the appellant possessed, as on that date, was Degree of Bachelor of Theatre Arts (B.T.A.) from the University of Calicut, M.A. in Drama and Theatre Arts from the Pondicherry University and M.Phil. in Theatre Arts from Mahatama Gandhi University.

Her appointment was challenged by Respondent Nos. 4 to 7 herein, who filed the Writ Petition in the High Court of Kerala. The learned Single Judge of the High Court of Kerala dismissed the Writ Petition.

However, in appeal, the Division Bench has set aside the appointment.

None of these respondents (original petitioners) belong to Muslim community. The challenge led to her appointment was on the ground that the appellant did not have the qualification of having passed NET examination which was also one of the required qualifications for the post in question. Accepting this contention, the Division Bench of the High Court, vide impugned Judgment dated 30.05.2008, set aside the appointment of the appellant to the aforesaid post of Lecturer in Children's Theatre.

It is this order which is under challenge in the present proceedings. The contention of the appellant is that the Writ Petition was not maintainable at the instance of Respondent Nos. 4 to 7 and they have had no Locus Standi to challenge the appointment of the appellant as the post in question was reserved for Muslim community and none of these respondents (original petitioners) belong to this community. It is further submitted that UGC Regulations permitted the Universities to relax the qualification of NET prescribed for the various posts, subject to its approval from the question of relaxation is a matter concerning the UGC and the University without the intervention of the individuals. It is also contended that having regard to the brilliant academic record and exemplary performance of the appellant in the Interview before the Selection Committee, she was unanimously recommended for the appointment to the said post and thereafter, the Syndicate in its meeting held on 16.11.2004 had unanimously approved the appointment, thereby relaxing the condition of passing the NET examination.

Except the University, none of the other respondents have appeared before us in the matter.

When the Special Leave Petition came up for preliminary hearing on 01.07.2008, notice was issued in this petition and operation of

the impugned Judgment of the Division Bench of the High Court was stayed. As a result, the appellant has continued in service. She has thus served for almost 10 years with the respondent-University. There is no complaint about her work and conduct. Pertinently, in the meantime, she has also passed the NET examination. Having regard to these circumstances, we are of the opinion that the appellant should not be dislodged from the post now and should be allowed to continue to the said post of Lecturer to which she was appointed after due selection and on her merits.

We, accordingly, allow this appeal and set aside the impugned Judgment of the Division Bench of the High Court and restore the order of the learned Single Judge of the High Court. There will be no order as to costs.

.....J.
[ANIL R. DAVE]

.....J.
[A. K. SIKRI]

New Delhi;
July 16, 2013.

ITEM NO.202

COURT NO.14

SECTION XIA

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).15527/2008

(From the judgement and order dated 30/05/2008 in WA No.106/2006 of The HIGH COURT OF KERALA AT ERNAKULAM)

NAJMUL SHAHI

Petitioner(s)

VERSUS

STATE OF KERALA & ORS.

Respondent(s)

(With appln(s) for vacating interim order and with prayer for interim relief and office report)
(For final disposal)

Date: 16/07/2013 This Petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE ANIL R. DAVE
HON'BLE MR. JUSTICE A.K SIKRI

For Petitioner(s) Mr. Bindu K. Nair, Adv.
Mr. K.R. Sasiprabhu, Adv.

For Respondent(s) Mr. Raghenth Basant, Adv.
Mr. Arjun Singh Bhati, Adv.
Mr.Senthil Jagadeesan, Adv.

Ms. Bina Madhavan, Adv.
Mr. Nishe Rajen Shonker, Adv.

UPON hearing counsel the Court made the following
O R D E R

Leave granted.
The Civil Appeal is allowed in terms of the signed order.

| (Jayant Kumar Arora)
| Sr. P.A.

| | (Sneh Bala Mehra)
| | Court Master

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