
(2022) 12 CHH CK 0042
In the Chhattisgarh High Court
Case No : Writ Appeal No. 314 Of 2020

Dr. Archna Khare

APPELLANT

Vs

State Of Chhattisgarh

RESPONDENT

Date of Decision : 15-12-2022

Acts Referred:

Citation : (2022) 12 CHH CK 0042

Hon'ble Judges : Arup Kumar Goswami, CJ;Arvind Singh Chandel, J

Bench : Division Bench

Advocate : Renu Kochar, Astha Shukla, Mayank Chandrakar

Final Decision : Dismissed

Judgement

1. Heard Ms. Renu Kochar, learned counsel for the appellant. Also heard Ms. Astha Shukla, learned Government Advocate, appearing for respondents No. 1 & 2 and Mr. Mayank Chadrakar, learned counsel, appearing for respondent No.4.

2. This writ appeal is presented against an order dated 09.07.2019 passed by the learned Single Judge in WPS No. 2267 of 2016.

3. This appeal is accompanied by an application for condonation of delay of 212 days, registered as I.A. No.01 of 2020. The application reads as under:

"1. That, the instant case is filed by the appellant against the order dated 09.07.2019 passed by Learned Single Judge in W.P.S. 2267/2016.

2. That the appellant has challenged order dated 9.07.2019 by Learned Single Judge in W.P.S 2267/2016. That appellant had challenged the appointment of respondent No. 4 which was given contrary to U.G.C. regulation 2009 and contrary to essential qualification required for the post.

3. That the writ petition was disposed of by order dated 9.07.2019, by giving direction to respondent No. 1 and 2 and hold enquiry with regard to validity of the degree of respondent No.4 as per UGC regulation 2009.

4. That petitioner filed application for modification/ clarification of order dated 09.07.2019, which was disposed of by order dated 09.12.2019.

5. That, petitioner filed contempt petition, when respondent authorities did not conduct enquiry as per order dated 9.07.2019.

6. That petitioner has challenged the order dated 9.07.2019 in the instant writ appeal. That there is delay of 212 days in filing writ appeal, which was due to bonafide mistake.

7. That petitioner was confident that all her testimonial and ground raised in writ petition was genuine and the authorities would give her appointment as prayed in the writ petition. But no appointment order has been issued nor the enquiry is completed, petitioner was waiting of the out come of the enquiry. Hence there is delay in filing present writ appeal.

8. That, the reason stated above, the applicant most humbly prays to this Hon'ble Court may kindly be pleased to condone the delay."

4. What is the order dated 09.12.2019 as stated in paragraph 4 is not spelt out by the appellant. It is stated in the application that the appellant was awaiting the outcome of the enquiry. Without there being any order, the appellant has filed another application on 08.04.2021 seeking condonation of delay. In the said application, it is stated by the appellant that she was confident that upon enquiry, illegal appointment of the respondent No. 4 would be cancelled. It is also stated that the appellant had filed caveat on 18.07.2019.

5. The writ appeal was filed on 09.07.2020, though acknowledgment of filing shows that the same was filed on 01.06.2020. Ms. Kochar submits that the discrepancy in date was due to the fact that there were some defects.

6. The learned Single Judge, by the order impugned, has observed as follows:

"11. Given the said facts, it is ordered that let the respondents No.1 & 2 conduct an inquiry so far as the credentials of the respondent No.4 in the light of the requirement as per the advertisement dated 23.12.2005 so far as the post of Head of the Department, Polytechnic Institutions in Costume Designing and Dress Making is concerned. While conducting the inquiry, the respondents No.1 & 2 are expected to verify the actual experience, if any, that the respondent No.4 then had as was required under the advertisement and shall also consider whether the Ph.D. that the respondent No.4 has is one which is firstly from a recognized University and secondly whether it is a valid Ph.D. or not.

12. After the inquiry is conducted, the respondents would be free to take an appropriate decision in the light of the findings of the inquiry so far as the respondent No.4 is concerned. Needless to mention that in the inquiry, which would be conducted by the respondents No.1 & 2, the respondent No.4 also would be given a fair opportunity to defend her case justifying her credentials."

7. Mr. Mayank Chandrakar submits that pursuant to the order of this Court, the

report was submitted on 21.05.2020 and based on the report, respondent No. 4 was allowed to continue and the probation period of respondent No. 4 was also confirmed.

8. On a query of the Court, Ms. Kochar has submitted that the said report has been challenged by the appellant by filing another writ petition which is pending consideration.

9. Having regard to the facts and circumstances of the case, it cannot be said that delay has been satisfactorily explained. The fact that the appellant had filed a caveat goes to show that the appellant was satisfied with the order and it was considered by her that the respondent No. 4 would appeal against the order. The appellant was also awaiting the result of the enquiry. This writ appeal, evidently, was filed subsequent to the report dated 21.05.2020. That apart, when a separate writ petition is already filed, no occasion arises for this Court to entertain this appeal as the order of the learned Single Judge stood implemented.

10. In that view of the matter, the application for condonation of delay is dismissed. Consequently, the appeal also stands dismissed.