
(2004) 11 DEL CK 0120
In the Delhi High Court
Case No : LPA No. 633 of 2004

Ela Kumar

APPELLANT

Vs

A.I.C.T.E. and Another

RESPONDENT

Date of Decision : 04-11-2004

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2005) 117 DLT 371 : (2006) 1 SLJ 163

Hon'ble Judges : Manju Goel, J;B.A. Khan, J

Bench : Division Bench

Advocate : Rakesh Kumar, for the Appellant; C.B.N. Babu and Sandeep Srivastava, for the Respondent No. 2, for the Respondent

Judgement

B.A. Khan, J.—Appellant's writ petition WP (C) No. 6827/2003 has been dismissed by impugned order dated 12.5.2004 for want of jurisdiction by this Court on noticing that appellant was aggrieved of action of respondent No. 1, located at Faridabad.

2. Appellant was a candidate for the post of Assistant Professor in the YMCA Institute of Engineering (YMCAIE), Faridabad; Haryana. He claims that he was eligible for the post in terms of the qualification prescribed in circular dated 15.3.2000 issued by AICTE -- All India Council for Technical Education. However, the Council had changed the eligibility criteria later which had resulted in appellant becoming ineligible for the post although he had taken the interview for it. And when he had sought redressal for this, he was informed that AICTE had directed respondent No. 2/Institute to decide his eligibility as per amended notification dated 19.2.2003.

3. Appellant felt aggrieved of this and filed WP(C) No. 6827/2003 seeking a mandamus to AICTE (respondent No. 1) to modify its notification dated 19.2.2003 and to bring it in conformity with corrigendum notification dated 6.2.2001 and to declare him eligible for the post of Assistant Professor in YMCAIE (respondent No. 2).

4. Appellant's short case is that his writ petition was wrongly dismissed for want of jurisdiction by this Court on the premise that the relief sought by him was directed against respondent No. 2 which was located at Faridabad and which falls outside the territorial jurisdiction of this Court. It is pointed out by his Counsel that the relief sought by him was only directed against respondent No. 1 (AICTE) which had issued the corrigendum notification changing the eligibility criteria and from whom its modification was being sought and, Therefore, his writ petition could not have been dismissed for want of jurisdiction by this Court.

5. Needless to point out that Article 226 of the Constitution empowers the High Court to issue various writs mentioned therein to any person or authority including any Government through those territories in relation to which it exercised jurisdiction. Under Clause 2 of this Article, this power is exercisable also in relation to the territories within which the cause of action wholly or in part arises notwithstanding that the seat of such Government or authority or the residence of the person against whom the writ is sought is not within that territory.

6. In the present case, it is not disputed that All India Council for Technical Education (AICTE) is located at Delhi and falls within the territorial jurisdiction of this Court. Therefore, it becomes unnecessary to examine whether the cause of action had accrued to appellants wholly or partly within Delhi. The fact remains that he had sought relief in the writ petition against AICTE which was located within the territorial jurisdiction of this Court and was so amenable to its jurisdiction and, Therefore, appellant's writ petition could not have been dismissed for want of jurisdiction and that too on a wrong premise that it was directed against the action of respondent No. 2.

7. It appears that the relief sought by the petitioner in his writ petition had escaped the notice of the writ Court resulting in the dismissal of his writ petition. The writ Court order is accordingly set aside on this parity of reasoning.

8. Appellants writ petition WP(C) No. 6827/2003 shall accordingly revive and Registry is directed to post this before the Appropriate Court.

9. The writ Court is requested to examine this writ petition and decide it on merits.