

(2021) 08 KL CK 0072

In the High Court Of Kerala

Case No : Writ Petition (C) No. 15503 Of 2021

ILA Rajeev (Minor)

APPELLANT

Vs

National Institute Of Design

RESPONDENT

Date of Decision : 10-08-2021

Acts Referred:

Constitution of India, 1950 — Article 226(2)

Citation : (2021) 08 KL CK 0072

Hon'ble Judges : P.B.Suresh Kumar, J

Bench : Single Bench

Advocate : Manu Govind, Ravi Krishnan

Final Decision : Dismissed

Judgement

P.B.Suresh Kumar, J

1. Petitioner applied for admission in the first respondent Institute for B.Des (Bachelor of Design) course. A centralized all India selection process is

conducted by the first respondent for admission to the said course. The selection process has two stages, preliminary and main. The petitioner has

successfully cleared the preliminary stage of the selection process. Thereafter, the petitioner participated in the main examination, which consists of

two parts, namely, 'Studio Test' and 'Interactive Session'. The first part - Studio Test is conducted through Portfolio Presentation and/or Theme Poster

Presentation and the second part - Interactive Session is a test judged by three panel members, wherein the candidates are either given creative tasks

or they would be asked questions. The petitioner participated in Studio Test and thereafter she was called for Interactive Session. It is stated that

when the results were announced, the first respondent declared that the marks obtained by the candidates for Studio Test have not been taken into

account for the purpose of preparing the list of students selected for admission. The petitioner is aggrieved by the said decision of the first respondent.

She, therefore, seeks directions to the respondents to recalculate the rank position taking into account the marks obtained by her for Studio Test also.

2. Heard the learned counsel for the petitioner.

3. When the matter was taken up for admission, this Court entertained a doubt as to whether the writ petition seeking the relief aforesaid against the

respondents located in the State of Gujarat is maintainable before this Court. When the learned counsel for the petitioner was asked to clarify the said

aspect, the learned counsel for the petitioner has taken the stand that insofar as a part of the cause of action for instituting the writ petition has arisen

within the territorial limits of the State of Kerala, this Court has jurisdiction to entertain the writ petition, in the light of the provision contained in Article

226(2) of the Constitution. When the learned counsel was required to explain the premise on which it was stated by him that a part of the cause of

action for instituting the writ petition has arisen within the jurisdiction of this Court, it was explained by the learned counsel that all the tests for

selection have been conducted online and the petitioner has participated in the tests online from the State of Kerala.

4. It is now trite that a writ petition can be instituted only in a High Court within the territorial jurisdiction of which an integral part of the cause of

action has arisen [see *Indian Maritime University v. Viswanathan*, 2014 (4) KLT 798]. In the case on hand, the first respondent institute is located in

the State of Gujarat. The various tests which are part of the selection process have been conducted by the respondents in the State of Gujarat. The

select list, which is impugned in the writ petition, has also been prepared and published by the respondents in the State of Gujarat. In other words, no

part, much less any integral part of the cause of action has arisen within the territorial jurisdiction of this Court.

5. Of course, since the tests for selection have been conducted online, candidates were given liberty to participate in the selection process from

anywhere in the world. The question is whether this Court can entertain a writ petition merely for the reason that the petitioner has participated in the

selection process online from the State of Kerala. Acceptance of the argument that the situs from where the candidate accessed the first respondent

for participating in the selection process will determine the jurisdiction, would lead to a situation that the litigant would be in a position to choose his

own Court for the purpose of redressal of his grievance. No litigant has a right to choose the Court for seeking the relief, and Article 226(2) of the

Constitution does not alter that position [See *Nakul Deo Singh v. Deputy Commandant*, 1999 (3) KLT 629].

For the reasons aforesaid, I am of the view that the writ petition seeking the relief aforesaid is not maintainable before this Court. The writ petition is,

accordingly, dismissed as not maintainable.