
(1984) 11 AP CK 0023

In the Andhra Pradesh High Court

Case No : Writ Petition No. 10342 of 1984

Kasireddy Venkatreddy

APPELLANT

Vs

The Osmania University, Hyderabad and Others

RESPONDENT

Date of Decision : 15-11-1984

Acts Referred:

Constitution of India, 1950 — Article 16

Citation : (1985) 2 LLJ 141

Hon'ble Judges : Kodandaramayya, J

Bench : Single Bench

Judgement

1. The petitioner is a lecturer in Telugu working in the College of Arts and Science, Kamareddy. The petitioner applied for the post of a lecturer in the Faculty of Arts in pursuance of an advertisement No. 9/83, dated 20th October, 1983 issued by the 1st respondent, the Osmania University. He paid the necessary prescribed fee and also appeared for the interview on 9th March, 1984. The authorities selected the 3rd respondent also in the interview who is said to be one of the applicants for the post and petitioner was put in the rank No. 2 and respondent No. 3 was put in the first rank in the selection list. This writ petition is filed challenging the order of appointment of the 3rd respondent mainly on the ground that he did not apply in pursuance of the advertisement mentioned above before 14th November, 1983 which is admittedly the last date for submitting the applications for the appointment of the above post. It is also urged that 3rd respondent did not qualify himself to the post by 14th November, 1983.

2. The fact that the 3rd respondent did not apply for the said post before 14th November, 1983 is not disputed by the respondent-authorities. But what was urged was that the 3rd respondent applied to the post of lecturer in pursuance of earlier advertisement No. 6/83 and hence the authorities have got power to consider his candidature even though he did not apply in pursuance of this advertisement. It is also admitted that the 3rd respondent did not qualify himself

as Phd. candidate as he admittedly obtained his degree on 6th March, 1984 i.e. just three days before the interview. It is also not in dispute that the advertisement No. 9/83 did state that the persons who have already applied need not apply afresh. It is no doubt true that one of the qualifications mentioned in Phd. or Research work of equally high standard. The 3rd respondent was served with notice but he did not file any counter affidavit stating that he possessed superior qualifications which is equivalent to Phd. It is difficult to accept that the authorities would have selected them if he does not possess the Phd. degree. However without going into that question it is enough if I hold that once admittedly he has not applied in the prescribed form within the time stipulated in the advertised viz., 14th November, 1983 the authorities cannot consider his candidature and select him by taking private communications or applications un-connected with this advertisement.

3. Now it is well settled that the University is a State within the meaning of the Constitution of India and they are bound to discharge the statutory functions reasonably, bona fide and without negligence. The process of selection involves discharging not only statutory function but also a public function in respect of which citizens should have full confidence in the activities of the authorities. The Selecting Authority should not adopt ad hoc methods and justify their condition on different reasons not present at the time of selection. The process of selection is a solemn function enjoined on the authorities and it must be discharged strictly as a public relation exercise by the statutory authority.

4. The dicta of Justice Frankfurter in *Vitarelli v. Seaton* (1959) 359 U.S. 535, adopted by our Supreme Court in *Sukhdev Singh, Oil and Natural Gas Commission, Life Insurance Corporation, Industrial Finance Corporation Employees Associations Vs. Bhagat Ram, Association of Clause II. Officers, Shyam Lal, Industrial Finance Corporation*, that he that takes the procedural sword shall perish with that sword, a well established rule of administrative law applies to the facts of this case. The authorities having invited applications and fixed up a time limit, cannot consider the candidature of other persons who have not applied for the same. If they think that opportunity should be afforded to other candidates who have not applied for want of time or otherwise they are entitled to cancel the advertisement and issue a fresh advertisement as it was held by the Supreme Court in *I.J. Divakar and Others Vs. Government of Andhra Pradesh* and Another, , that inviting the applications for a post does not by itself create a right to the post in the candidate who in response to the advertisement makes an application. It was observed by the Supreme Court in *Union of India (UOI) Vs. Mohan Lal Capoor and Others*, , that the process of selection of a candidate may not be described as a quasi-judicial function but it was held "Yet, it seems unfair to deprive a person suddenly of either an expectation to be placed and even more, of a place on a finalised select list, which confers certain valuable rights on him, without informing him of even the reasons for his proposed supersession before its approval. At any rate, Article 16 of our Constitution gives right to Government servants to be treated fairly and squarely,

reasonably and impartially in matters relating to service." Thus introducing the persons who are non-applicants to a particular post is clearly arbitrary exercise of powers and the same is liable to be interdicted by this Court under Art. 226 of the Constitution of India.

5. In view of the fact that the 3rd respondent is not one of the applicants for the posts called for in pursuance of Advertisement No. 9/83 his selection is clearly illegal and without jurisdiction.

6. This court granted an interim direction not to appoint the 3rd respondent on 29th June, 1984 and the same is made absolute on 23rd June, 1984 and hence the only candidate now available for this post is the petitioner. Hence there shall be a direction under Art. 226 of the Constitution of India to the 1st respondent not to appoint the 3rd respondent in the post of lecturer in Telugu (VI Plan) in respect of which Adv. No. 9/83 dated 20th October, 1983 was issued and also a direction to issue orders to the petitioner appointing him to the said post as per the proceedings of the Selection Syndicate dated 16th March, 1982. The writ petition is allowed accordingly. I make no order as to costs. Advocate's fee Rs. 150/-.