
(2019) 09 UK CK 0085
In the Uttarakhand High Court
Case No : Special Appeal No. 851 Of 2019

Manju Arya

APPELLANT

Vs

Gomti Puran Prasad Arya Kanya Inter College & Others

RESPONDENT

Date of Decision : 16-09-2019

Acts Referred:

Citation : (2019) 09 UK CK 0085

Hon'ble Judges : Ramesh Ranganathan, CJ;Alok Kumar Verma, J

Bench : Division Bench

Advocate : A.K. Bansal, J.C. Pande, C.K. Sharma

Final Decision : Dismissed

Judgement

Ramesh Ranganathan

1. This appeal is preferred, by the sixth respondent in Writ Petition (S/S) No.2395 of 2015 and the review applicant in Review Application (MCC No.722 of 2019), aggrieved by the order passed by the learned Single Judge dated 29.08.2019.

2. The sixth respondent herein had earlier filed Writ Petition (S/S) No.2395 of 2015 contending that the review applicant was awarded 22, 20, 18 and 24 marks respectively by the four member selection committee; the regulations required reasons to be assigned by each of the member of the selection committee if less than 10 marks and more than 18 marks out of 25 marks were awarded in the interview; however, though all the four committee members had awarded 18 marks or more in favour of the appellant-review applicant, only one of the committee members had assigned reasons; and the selection process was, therefore, vitiated.

3. Finding force in this submission, urged on behalf of the sixth respondent-writ petitioner, the learned Single Judge has allowed the Writ Petition; and had set-aside the selection process.

4. Aggrieved thereby, the review applicant had preferred Special Appeal No.502 of 2019, and we had dismissed the said appeal by our order dated 12.07.2019. However, taking note of the submission made across the bar that the unofficial copy available with the review applicant disclosed that all the members of the selection committee had, in fact, assigned reasons for awarding the review applicant more than 18 marks, we had permitted the review applicant to seek review of the order passed by the learned Single Judge in Writ Petition (S/S) No.2395 of 2015 dated 12.04.2019.

5. On the appellant herein seeking review of the said order, the learned Single Judge called for the records from the Chief Education Officer, who produced the original records on 13.08.2019. On perusal thereof, the learned Single Judge observed that the records disclosed that only one member/evaluator had assigned reason for giving more than 18 marks, and no other member/evaluator had assigned reasons. The Managing Committee was called upon by the learned Single Judge, by his order dated 13.08.2019, to give its explanation. The Managing Committee filed its objections stating that the documents produced by the appellant-review applicant were not the documents of the Committee of Management, and it did not appear to be genuine. The review-applicant was given an opportunity to file her reply to the objections of the Managing Committee. The learned Single Judge, thereafter, observed that the Managing Committee had, itself, denied the veracity of the documents produced by the appellant-review applicant; and there was no occasion to review the order passed earlier on 12.04.2019. The Review Petition was dismissed with costs of Rs.25,000/-, and the Senior Superintendent of Police, Nainital was directed to lodge an FIR in the matter under the relevant provisions of law against the concerned persons, and to cause investigation by a senior officer so that the truth may emerge in the matter.

6. Before us Mr. A.K. Bansal, learned counsel for the appellant-review applicant, would submit that the genuineness or otherwise of the proceedings of the Selection Committee could only have been ascertained if affidavits had been called for from each of the members of the Selection Committee; in the absence of the sixth respondent in this appeal having arrayed them as respondents, the truth could not have been ascertained; and the learned Single Judge had, by directing an FIR to be lodged, has already concluded that the appellant-review applicant was guilty of filing fabricated documents in Court.

7. The dispute in the earlier round of litigation had attained finality, consequent on the appeal preferred by the review applicant having been dismissed. The finding recorded by the learned Single Judge, that only one member of the Selection Committee had assigned reasons, for awarding more than 18 marks to the review applicant in the interview, was affirmed by us. It is only because the review applicant had stated before us that she was in possession of certain documents which would disclose that all the members of the Selection Committee had assigned reasons for awarding the review applicant more than 18

marks, was she permitted to seek review of the earlier order passed by the learned Single Judge in Writ Petition (S/S) No.2395 of 2015 dated 12.04.2019.

8. On the applicant seeking review, the learned Single Judge has not only called for the records from the Chief Education Officer, but has also called for the explanation of the Managing Committee of the College. Both of them have denied the genuineness of the documents produced by the appellant-review applicant. The learned Single Judge was, in our view, justified in dismissing the Review Petition with costs.

9. Mr. A.K. Bansal, learned counsel for the appellant-review applicant, would submit that the fresh selection process, being undertaken, is in terms of new Rules where the marks for interview have been reduced from 25 to 5 marks, and this is impermissible.

10. As noted hereinabove, what is under challenge in these proceedings is the selection process undertaken by the Managing Committee earlier, which has been set at naught by the learned Single Judge. Whether or not the fresh selection process, now undertaken by the Committee of Management, is in accordance with law can only be examined on its being subjected to challenge in independent legal proceedings; and not in the proceedings where the validity of the earlier selection process was under challenge, and was set-aside.

11. The learned Single Judge has, in the order under appeal, only directed an FIR to be registered and the matter investigated into. Mere registration of an FIR would not mean that a finding of guilt has been recorded against the review applicant for, as noted in the order under appeal itself, an investigation has been directed to be caused so that the truth may emerge in the matter.

12. Suffice it to make it clear that the investigation to be caused, on registration of the FIR, shall be undertaken uninfluenced by any observations made either in the order under appeal or in the order now passed by us.

13. Subject to these observations, the Special Appeal fails and is, accordingly, dismissed. No costs.