

(2022) 09 KL CK 0187

In the High Court Of Kerala

Case No : Original Petition (CAT) NO. 61 Of 2022

Union Of India

APPELLANT

Vs

Udayaraj Janardhanan

RESPONDENT

Date of Decision : 30-09-2022

Acts Referred:

Citation : (2022) 09 KL CK 0187

Hon'ble Judges : A.K.Jayasankaran Nambiar, J; Mohammed Nias C.P., J

Bench : Division Bench

Advocate : S.Manu, M.R.Hariraj

Final Decision : Dismissed

Judgement

A.K.Jayasankaran Nambiar, J

1. This OP(CAT) is preferred by the Union of India, the Chief Passport Officer, New Delhi, and the Passport Officer, Kozhikode, aggrieved by the interim orders dated 19.09.2022 and 27.09.2022 of the Tribunal in M.A.No.744/2022 in O.A.No.180/410/2016. We find from a perusal of the interim orders that all that the Tribunal has done is to direct the petitioners herein to provisionally permit the applicant in the O.A to appear in the limited departmental competitive Examinations proposed to be held on 01.10.2022 at Delhi. The interim order issued on 19.09.2022 clearly stated that the appearance of the applicant at the examination was purely provisional and would be subject to the outcome of the O.A, pending before of the Tribunal.

2. It was thereafter and when the applicant approached the Tribunal pursuant to a situation where, notwithstanding the order of the Tribunal dated 19.09.2022, he was not issued with a hall ticket for appearing at the examination to be conducted in New Delhi, that the Tribunal came to pass the subsequent order dated 27.09.2022. In the said order, the Tribunal took note of the circumstances that led to the filing of the fresh M.A and finding that at this late hour, the applicant could not hope to get a hall ticket issued from the petitioners herein,

directed that if the applicant appeared at the venue of the examination at least 30 minutes before the prescribed time with a copy of the interim order of the Tribunal and a document confirming his identity, he would be permitted to appear at the examination based on the interim order of the Tribunal.

3. In the O.P(CAT) before us against the interim orders referred above, the contention of the learned counsel for the petitioners is essentially that the Tribunal ought not to have permitted the applicant to appear at the competitive examination when the specific contention of the petitioners in the O.A was that he was not qualified to appear at the said examination.

4. We heard Sri.S.Manu, the learned Deputy Solicitor General of India for the petitioners, and Sri.M.R.Hariraj, the learned counsel for the respondent applicant. On a consideration of the rival submission, we find ourselves unable to accept the contention advanced on behalf of the petitioners. The impugned orders of the Tribunal do not decide finally on the inter-se rights of the parties. The Tribunal found that the balance of convenience lay in permitting the applicant to appear at the competitive examination since, without writing the competitive examination, the applicant would not be entitled to further his career prospects. It was under the said circumstances and pending a resolution of the main dispute in the O.A as regards the eligibility of the applicant that the Tribunal thought it fit to permit the applicant to appear provisionally at the competitive examination and subject to the final outcome of the O.A. We are unable to ascertain any reason for the petitioners to consider themselves prejudiced by the said orders of the Tribunal. As a matter of fact, we find that through the filing of this OP(CAT), the applicant has been unduly prejudiced on account of the mental anxiety caused through the filing of this OP at the 11th hour.

In the result, we dismiss the OP(CAT) and direct the petitioners to forthwith communicate the gist of this decision to the authorities in New Delhi so that the applicant will be able to appear at the examination scheduled on 01.10.2022 without any further hindrance.