

(2009) 01 RAJ CK 0080
In the Rajasthan High Court

University of Rajasthan

APPELLANT

Vs

The Commissioner for Persons with Disabilities and Another

RESPONDENT

Date of Decision : 16-01-2009

Acts Referred:

Penal Code, 1860 (IPC) — Section 228
Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 — Section 61, 62

Citation : (2009) 01 RAJ CK 0080

Hon'ble Judges : K.S. Rathore, J

Bench : Single Bench

Final Decision : Allowed

Judgement

K.S. Rathore, J.—This writ petition is directed against the orders dt. 02.08.2006 (Annexure-2) and 25.10.2007 (Annexure-4) passed by the Commissioner for persons with Disabilities, Rajasthan.

2. Vide Annexure-2 dt. 02.08.2006, the Commissioner for persons with Disabilities directed the petitioner to consider the case of respondent No. 2 Ramanuj Pancholi for adhoc appointment till the process of selection is not initiated.

3. Vide Annexure-4 dt. 25.10.2007, the Commissioner for persons with Disabilities, Rajasthan, has reviewed its earlier order dt. 02.08.2006 (Annexure-2) as well as contempt proceedings with regard to compliance of above earlier order dt. 02.08.2006 and directed the Government as well as the petitioner University of Rajasthan to comply with the order dt. 02.08.2006 within a period of 15 days but discharged the notice issued to the petitioner u/s 228 of the Indian Penal Code.

4. The petitioner has also challenged the competence of the Commissioner with regard to issuance of such directions and referred Sections 61 and 62 of the Persons With Disabilities (Equal Opportunities, Protection of Rights and Full

Participation) Act, 1995 (for short 'the Act of 1995').

5. Section 61 of the Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 speaks about 'Power of the Commissioner', which reads as under:

61. The Commissioner within the State shall-

- (a) coordinate with the departments of the State Government for the programmes and schemes for the benefit of persons with disabilities;
- (b) monitor the utilisation of funds disbursed by the State Government;
- (c) take steps to safeguard the rights and facilities made available to persons with disabilities;
- (d) submit reports to the State Government on the implementation of the Act at such intervals as that Government may prescribe and forward a copy thereof to the Chief Commissioner.

6. Section 62 of the Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 provides 'Commissioner to look into complaints with respect to matters relating to deprivation of rights of persons with disabilities', which reads as under:

62. Without prejudice to the provisions of Section 61 the Commissioner may of his own motion or on the application of any aggrieved person or otherwise look into complaints with respect to matters relating to-

- (a) deprivation of rights of persons with disabilities;
- (b) non-implementation of laws, rules, bye-laws, regulations, executive orders, guidelines or instructions made or issued by the appropriate Government and the local authorities for the welfare and protection of rights of persons with disabilities, and take up the matter with the appropriate authorities.

7. After referring Sections 61 and 62 of the Act of 1995, learned Counsel for the petitioner submitted that Commissioner has no power to issue such directions vide impugned orders dt. 02.08.2006 and 25.10.2007.

8. It is stated at bar that selection process on the post of Professor is already initiated and thus, the question of giving appointment on ad hoc basis does not arise.

9. Having heard rival submissions of the respective parties and after carefully going through the provisions of Sections 61 and 62 of the Act of 1995 as also the impugned orders Annexure-2 and 4 dt. 02.08.2006 and 25.10.2007 respectively, the Commissioner has no power to issue such direction. Even otherwise also, as per the learned Counsel appearing for the University, the selection process is already started, therefore, the question of providing ad hoc appointment to the respondent No. 2 Ramanuj Pancholi does not arise.

10. As such, the orders impugned dt. 02.08.2006 (Annexure-2) and 25.10.2007 (Annexure-4) passed by the Commissioner for persons with Disabilities, Rajasthan are hereby quashed and set-aside.

11. The writ petition stands allowed accordingly.