IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.4433-4436 OF 2021
(Arising out of SLP(C)Nos.11316-11319 of 2021)
[Diary No. 19290 of 2019]

COMMISSIONER/SECRETARY TO GOVT. EDUCATION DEPARTMENT, J AND K & ORS. ETC. Appellant(s)

VERSUS

MOHD AMIN WAZA & ANR. ETC. Respondent(s)

O R D E R

Leave granted.

Heard learned counsel for the contesting parties.

The contempt action was initiated by respondent no.1 – original writ petitioner in reference to the order passed by the High Court dated 24.05.2011 in SWP No.2560 of 1998.

The direction given by the High Court to the Department was to merely consider the case of respondent no.1 - writ petitioner (Mohd. Amin Waza) for appointment on the post of teacher against any available vacancy.

It is not in dispute that the JK Services Selection Board did consider the case of respondent No.1 and passed order dated 13.09.2011 (Annexure P-5). In terms of that

Signature Not Verified
Digitally signed by NEETU KHAJURIA
Date: 2021.07.27 18:49:48 IST
Reason:

This is a True Copy of the court records online. Authenticated @ https://eCourtsIndia.com/cnr/SCIN010192902019/truecopy/order-6.pdf

order, the claim of respondent no.1 to the post of teacher against available vacancy came to be rejected on the ground that respondent no.1 had obtained only 34.75 points as against the last selected candidate in OM Category having 49.83 points. The correctness of that view taken by the Board has not been challenged.

In the Contempt Petition filed by respondent no.1 before the High Court, however, it was urged that the Department did not comply with the observations made by the High Court vide order dated 24.05.2011, fully, much less, in its letter and spirit. The High Court was impressed by that argument and decided to initiate contempt action against the appellants. Accordingly, directions have been issued.

The question is: whether the direction given by the High Court in its order dated 24.05.2011 had been acted upon and complied with by the Department or not?

As aforesaid, the direction was limited to consider the case of respondent No.1 for appointment on the post of teacher against any available vacancy. The principal challenge to the selection process by the respondent No.1 had not been adjudicated by the High Court, much less answered in favour of the appellant, on the ground that

This is a True Copy of the court records online. Authenticated @ https://eCourtsIndia.com/cnr/SCIN010192902019/truecopy/order-6.pdf

after lapse of time it may not be appropriate to examine the plea of respondent No.1 that some of the candidates appointed were not eligible, the contention being though shown as Graduate but, in fact, they had passed only 10+2 examination. Thus, the appointments made were not disturbed.

The fact remains that this view taken by the High Court was never assailed by respondent No.1 by asking further relief which the respondent No.1 should have otherwise pursued.

Reverting back to the direction issued by the High Court, as it was limited to consider the claim of respondent no.1 and the Department having done so, nothing further was required to be done. In any case, as such it would not be a case of willful disobedience of the direction given by the High Court.

In the contempt proceedings, the High Court cannot improve upon the direction or give additional direction to the Department beyond the original direction(s) contained in the order dated 24.05.2011.

Accordingly, these appeals succeed and the impugned judgment and order of the High Court initiating contempt action in reference to order dated 24.05.2011 are,

This is a True Copy of the court records online. Authenticated @ https://eCourtsIndia.com/cnr/SCIN010192902019/truecopy/order-6.pdf

therefore, set aside.

The appeals are allowed in the above terms.

Pending applications, if any, stand disposed of.

….....J
(A.M. KHANWILKAR)

….....J
(SANJIV KHANNA)

New Delhi;
July 26, 2021.

www.ecourtsindia.com

This is a True Copy of the court records online. Authenticated @ https://eCourtsIndia.com/cnr/SCIN010192902019/truecopy/order-6.pdf

ITEM NO.5 Court 4 (Video Conferencing) SECTION XVI-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

SPECIAL LEAVE PETITION (CIVIL) Diary No(s). 19290/2019

(Arising out of impugned final judgment and order dated 28-03-2016 in CONT No. 363/2011 11-04-2016 in CONT No. 6/2016 07-09-2016 in CONT No. 6/2016 03-07-2017 in COD No. 227/2016 passed by the High Court Of Jammu&kashmir At Srinagar)

COMMISSIONER/SECRETARY TO GOVT. EDUCATION DEPARTMENT, J AND K & ORS. ETC. Petitioner(s)

VERSUS

MOHD AMIN WAZA & ANR. ETC. Respondent(s)

IA No. 129227/2020 - VACATING STAY)

Date : 26-07-2021 These matters were called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE A.M. KHANWILKAR
HON'BLE MR. JUSTICE SANJIV KHANNA

For Petitioner(s) Mr. G.M. Kawoosa, Adv.
Ms. Taruna Ardhendumauli Prasad, AOR

Mr. M. Shoeb Alam, AOR (NP)

For Respondent(s) Ms. Sanjana Saddy, Adv.
Mr. Shakeel Sarwar Wani, Adv.
Ms. Anindita Mitra, AOR

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeals are allowed in terms of the signed order.

Pending applications, if any, shall stand disposed of.

(NEETU KHAJURIA)
COURT MASTER

(VIDYA NEGI)
COURT MASTER

(Signed order is placed on the file.)

This is a True Copy of the court records online. Authenticated @ https://eCourtsIndia.com/cnr/SCIN010192902019/truecopy/order-6.pdf