

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL Nos.551-553 OF 2023
(Arising out of SLP(C)Nos.13654-13656 of 2022)

DR. SREEJITH KRISHNAN & ORS.

... APPELLANTS

Versus

ANU JAYAPAL & ORS.

... RESPONDENTS

WITH

CIVIL APPEAL No.556 OF 2023
(Arising out of SLP(C)No.13012 of 2022)

CIVIL APPEAL Nos.554-555 OF 2023
(Arising out of SLP(C)Nos.12941-12942 of 2022)

CIVIL APPEAL No.557 OF 2023
(Arising out of SLP(C)No.16086 of 2022)

SLP(C)No.15826 of 2022

O R D E R

C.A Nos.551-553 of 2023 @ SLP(C)Nos.13654-13656/2022, C.A.No.556 of 2023 @ SLP(C)No.13012/2022, C.A.Nos.554-555/2023 @ SLP(C)Nos.12941-12942/2022 & C.A.No.557/2023 @ SLP(C)No.16086/2022

1. Leave granted.
2. Respondent No.1 - Anu Jayapal was the writ petitioner before the High Court. She is a specially abled person, who suffers from locomotor disability to the extent of 50%. She competed for

the post of Assistant Professor (English) but having not been selected, she challenged the selection before the High Court of Kerala at Ernakulam.

3. Learned Single Judge of the High Court vide judgment dated 10.05.2022 set aside the entire selection of about 60 candidates on the ground that the Institute - Sree Narayana College failed to provide 4% reservation to the disabled candidates in violation of the statutory mandate. The Division Bench of the High Court vide impugned judgment dated 29.06.2022 has affirmed the view taken by the learned Single Judge of the High Court.

4. The institute as well as the candidates, whose selection and appointment has been set aside, are before us.

5. We have heard learned Senior Counsel for the parties and carefully perused the material placed on record.

6. It appears to us that the claim of respondent No.1 - Anu Jayapal for appointment as Assistant Professor (English) against a post reserved for 'disabled persons' requires sympathetic consideration. Similarly, the selection and appointment of other candidates need not be interfered with especially when respondent No.1 can be accommodated against a vacant post.

7. Moreover, the aggrieved selected/appointed candidates were not parties in the proceedings before the High Court and their selection/appointment has been set aside without hearing them.

8. We, accordingly, without going into the rival contentions, deem it appropriate to invoke our powers under Article 142 of the Constitution and dispose of these appeals with the

following directions:

(i) Respondent No.1 - Anu Jayapal shall be appointed as Assistant Professor (English) with effect from 01.01.2021 but without payment of any arrears though her pay shall be notionally fixed;

(ii) Respondent No.1 - Anu Jayapal shall rank junior-most amongst those Assistant Professors(English), who were appointed on 01.01.2021 or prior thereto; and

(iii) The Institute shall, thus, be at liberty to proceed for further recruitments in accordance with law.

9. The judgment of the learned Single Judge dated 10.05.2022 as well as the Division Bench of the High Court dated 29.06.2022 are set aside. Consequently, the appellants whose selection and appointments have been quashed shall continue in service.

10. The appeals stand disposed of in the above terms.

11. The question of law is kept open to be decided in an appropriate case.

12. As a result, pending interlocutory applications also stand disposed of.

SLP(C)No.15826 of 2022

1. By a separate order in C.A.Nos.551-553 of 2023 @ SLP(C)Nos.13654-13656/2022 etc. of even date, the petitioner has been directed to be given appointment retrospectively.

2. In view of the above, the instant petition has become infructuous and the same stands disposed of as such.

3. As a result, pending interlocutory applications also stand disposed of.

.....J.
(SURYA KANT)

.....J.
(J.K. MAHESHWARI)

NEW DELHI;
JANUARY 27, 2023.

ITEM NO.42

COURT NO.9

SECTION XI-A

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

Petition(s) for Special Leave to Appeal (C) No(s).13654-13656/2022

(Arising out of impugned final judgment and order dated 29-06-2022 in WA No.628/2022, WA No.646/2022 and WA No.653/2022 passed by the High Court of Kerala at Ernakulam)

DR. SREEJITH KRISHNAN & ORS.

Petitioner(s)

VERSUS

ANU JAYAPAL & ORS.

Respondent(s)

IA No.99327/2022 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT

IA No.99328/2022 - EXEMPTION FROM FILING O.T.

WITH

SLP(C) No.13012/2022 (XI-A)

IA No.7875/2023 - CLARIFICATION/DIRECTION

IA No.103340/2022 - EXEMPTION FROM FILING O.T.

IA No. 179733/2022 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

SLP(C) Nos.12941-12942/2022 (XI-A)

(FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT ON IA 102325/2022

FOR EXEMPTION FROM FILING O.T. ON IA 102326/2022

IA No.102325/2022 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT

IA No. 102326/2022 - EXEMPTION FROM FILING O.T.)

SLP(C) No.16086/2022 (XI-A)

(FOR ADMISSION and I.R. and IA No.121544/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.121545/2022-EXEMPTION FROM FILING O.T. and IA No.121543/2022-PERMISSION TO FILE PETITION (SLP/TP/WP/..)[TO BE TAKEN UP ALONG WITH D.NO.21444/2022])

SLP(C) No.15826/2022 (XI-A)

(FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT ON IA 132882/2022

FOR EXEMPTION FROM FILING O.T. ON IA 132884/2022

IA No.132882/2022 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT

IA No. 132884/2022 - EXEMPTION FROM FILING O.T.)

Date : 27-01-2023 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SURYA KANT

HON'BLE MR. JUSTICE J.K. MAHESHWARI

For Petitioner(s) Mr. K.V. Vishwanathan, Sr.Adv.
 Ms. Seema Jain, Adv.
 Ms. Manshu Sharma, Adv.
 Mr. P. S. Sudheer, AOR
 Mr. Sivagnanam K., Adv.
 Mr. Adithya Koshy Roy, Adv.
 Mr. Abhishek Anand, Adv.

Mr. V Chitambareash, Sr. Adv.
 Mr. Kaustubh Shukla, AOR
 Mrs. Samriti Ahuja, Adv.

Mr. S.Guru Krishna Kumar, Sr.Adv.
 Mr. Roy Abraham, Adv.
 Mr. A.N. Rajan Babu, Adv.
 Ms. Reeny Roy, Adv.
 Mr. Adkhil Abraham Roy, Adv.
 Ms. Purva, Adv.
 Mr. Himinder Lal, AOR

Mr. Siddhartha Dave, Sr.Adv.
 Mr. Vimlesh Kumar, Adv.
 Mr. Arun K.Jaiswal, Adv.
 Ms. Anne Mathew, AOR

For Respondent(s) Mr. V Chitambareash, Sr. Adv.
 Mr. Pr Ravindran, Sr. Adv.
 Mr. C Govind Venugopal, Adv.
 Ms. Sonal Gupta, Adv.
 Mr. Kaustubh Shukla, AOR
 Mrs. Samriti Ahuja, Adv.

Mr. C. K. Sasi, AOR
 Mr. Abdulla Naseeh V T, Adv.
 Ms. Meena K Poullose, Adv.

Mr. Lakshmeesh S. Kamath, AOR

Mr. S.Guru Krishna Kumar, Sr.Adv.
 Mr. Roy Abraham, Adv.
 Mr. A.N. Rajan Babu, Adv.
 Ms. Reeny Roy, Adv.
 Mr. Adkhil Abraham Roy, Adv.
 Ms. Purva, Adv.
 Mr. Himinder Lal, AOR

Mr. Siddhartha Dave, Sr.Adv.
 Mr. Vimlesh Kumar, Adv.
 Mr. Arun K.Jaiswal, Adv.
 Ms. Anne Mathew, AOR

UPON hearing the counsel the Court made the following

O R D E R

C.A Nos.551-553 of 2023 @ SLP(C)Nos.13654-13656/2022, C.A.No.556 of 2023 @ SLP(C)No.13012/2022, C.A.Nos.554-555/2023 @ SLP(C)Nos.12941-12942/2022 & C.A.No.557/2023 @ SLP(C)No.16086/2022

1. Leave granted.
2. The appeals stand disposed of in terms of the signed order.
3. The question of law is kept open to be decided in an appropriate case.
4. As a result, pending interlocutory applications also stand disposed of.

SLP(C)No.15826 of 2022

1. By a separate order in C.A.Nos.551-553 of 2023 @ SLP(C)Nos.13654-13656/2022 etc. of even date, the petitioner has been directed to be given appointment retrospectively.
2. In view of the above, the instant petition has become infructuous and the same stands disposed of as such.
3. As a result, pending interlocutory applications also stand disposed of.

(SATISH KUMAR YADAV)
DEPUTY REGISTRAR

(PREETHI T.C.)
COURT MASTER (NSH)

(Signed order is placed on the file)