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SLP(C)No. 4969 OF 2003
ITEM No.27

Court No.10

SECTION XIIA
A/N MATTER

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 (Civil) No.4969/2003

(From the judgement and order dated 24/06/2002 in WA 2205/98
of The HIGH COURT OF A.P. AT HYDERABAD)

M. NAVEEN

Petitioner (s)

VERSUS

KAKATIYA UNIVERSITY & ANR.

Respondent (s)

(With Appln(s). for c/delay in filing SLP and permission to place addl.
documents on record and with prayer for interim relief and Office Report)

Date : 23/01/2004 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE BRIJESH KUMAR
HON'BLE MR. JUSTICE ARUN KUMAR

For Petitioner (s)Mr. Y. Raja Gopala Rao.,Adv.
Ms. Sasmita Tripathy,Adv.
Mr. Y. Ramesh,Adv.

For Respondent (s)Mr. I. Venkata Narayana, Sr.Adv.
Mr. T.N. Rao,Adv.
Mr. A. Ramesh,Adv.

Mr. P. Venkat Reddy,Adv.
Mr. Anil Kumar Tandale,Adv.

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

Delay condoned.
Leave granted.
The appeal is allowed in terms of the signed order. No costs.

(A.S. BISHT)(PROMILA NAGPAL)
COURT MASTER

COURT MASTER

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

M. NAVEEN
.....
APPELLANT(S)

:VERSUS:

KAKATIYA UNIVERSITY & ANR.
.....
RESPONDENT(S)

O R D E R

Leave granted.

Counter affidavits have been filed on behalf of respondent Nos.1 & 2. Heard.
It is not denied by respondent No.1 that the required number of Muslim candidates for admission to the Engineering Course against the quota reserved for them were not available, that is to say the Muslim candidates fell short of the quota reserved for them. Respondent No.2 has also very specifically stated that the Muslim candidates were not available commensurating to their quota of 50% seats. In these circumstances, the appellant was adjusted, in order of merit, against one of the unfilled seats. Later, however, his admission was cancelled holding it to be against the Rules.

-2-

Our attention has, however, been drawn to the Andhra Pradesh Minority Educational Institutions (Establishment, Recognition and Regulation) Rules, 1988. Sub-rule (d) of Rule 13 provides as under:

"Only after exhausting all candidates belonging to the concerned community, candidates belonging to other than the concerned community shall be admitted as per merit. While admitting these students, however, rule of reservation shall be followed. Candidates of minority communities other than those belonging to the concerned minority community shall be treated as of belonging to non-minority community for all purposes."

That being the position, as indicated above, we find that there was no justification to cancel the admission of the appellant against a vacant seat for which a candidate of reserved category was not available.

We, therefore, allow the appeal and set aside the order passed by the High Court as well as the order of cancellation of the admission of the appellant to the concerned course.

No costs.

.....J
(BRIJESH KUMAR)

.....J
(ARUN KUMAR)

NEW DELHI;
JANUARY 23, 2004.