



Surya Prakash Jaiswal ...Appellant (s)

Versus~

Osmania University & Anr. ....Respondent (s)

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The second respondent was appointed as a Lecturer in Hindi in the Osmania University, Respondent No.1 herein, in the year 1988. The appellant was also an applicant for appointment to the said post. He was not selected but the second respondent was selected and appointed. In the year 1997, an occasion arose for promotion to the post of Reader in the said University. The second respondent was one of the contenders for promotion to the post of Reader. One Dr. Shubhada Vanjape, who was also the contender for promotion to the post of Reader, filed Writ Petition No. 19703 of 1997 contending that the second respondent herein did not belong to the reserved category of B.C. (B) and she had secured appointment as Lecturer in 1988 on the basis of a false ...2/-

certificate produced by her. A statement was made on behalf of the University, in that writ petition, that the University had found that the second respondent did not belong to the reserved category of B.C. (B). Placing the said statement on record, the writ petition was disposed of on 21st August, 1997. Consequently, the case of the second respondent was not considered for promotion to the post of Reader. It is thereafter that the appellant filed Writ Petition No. 25488 of 1997 before the High Court seeking direction for consideration of his case for appointment as a Lecturer on the ground that the second respondent was not at all eligible to be considered for appointment in 1988 as a Lecturer as belonging to the reserved category of B.C. (B). He based his claim on the order passed by the High Court in Writ Petition No. 19703 of 1997 afore-mentioned. The writ petition was resisted by the second respondent. A contention was raised that the writ petition could not be entertained challenging her appointment made in the year 1988, almost after a period of ten years. However, the learned Single Judge, looking to the order made in Writ Petition No. 19703 of 1997, directed the University to conduct an enquiry with regard to the B.C. (B) caste certificate of the second respondent as well as that of the appellant through the competent authority relating to ...3/-

the social status certificate issued by the concerned Mandal Revenue Officers and thereafter proceed further depending on the result of the enquiry. Aggrieved by the said order of the learned Single Judge, the second respondent filed a writ appeal before the Division Bench of the High Court. The Division Bench of the High Court, after hearing the learned counsel for the parties and having regard to the contentions raised on their behalf, allowed the appeal and set aside the order passed by the learned Single Judge observing that the caste certificate issued by the Mandal Revenue Officer to the second respondent had not been cancelled; the University was not the competent authority to hold an enquiry in regard to the caste status of the second respondent; and the appointment of the second respondent made in the year 1988 could not be upset by holding an enquiry with regard to her caste status.

The learned counsel appearing for the appellant contended that the learned Single Judge was right in giving direction in the writ petition having regard to a finding of fact recorded as to the caste status of the second respondent in Writ Petition No. 19703 of 1997. It was promptly pointed out by the learned counsel for the second respondent that in the said writ petition, no finding of fact as such was ...4/-

recorded and that the order was made only on the basis of the statement made by the learned Standing counsel representing the University. He further added that that order was passed even without affording an opportunity of hearing to the second respondent.

Although a contention was specifically raised that the writ petition was liable to be dismissed on the ground of delay and laches, the learned Single Judge did not deal with the same in the order passed by him while giving direction to the University to hold an enquiry in regard to the caste status of the second respondent. It cannot be disputed that, at the relevant point of time, it was the Mandal Revenue Officer who was the competent authority to issue a caste status certificate and that the caste status certificate issued to the second respondent has not been cancelled. According to us, the learned Single Judge was not right in entertaining the writ petition after a period of ten years and the writ petition ought to have been dismissed on the ground of delay and laches. The Division Bench of the High Court, for the very reasons stated in the impugned judgement, was right in reversing the order of the learned Single Judge. Thus, having regard to the facts and circumstances of the case, we are of the view that the impugned judgement of the ....5/-

High Court does not call for any interference by this Court. Consequently, we dismiss the appeal but without any order as to costs.

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(Shivaraj V. Patil) @@  
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.....J.@@  
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(Arijit Pasayat)@@  
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New Delhi,  
April 23, 2003.