

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1137 OF 2013
(@ SPECIAL LEAVE PETITION (CIVIL) NO. 374 OF 2009)

VISVA BHARATI & ORS.

...APPELLANTS

VERSUS

SHRI BAIDYA NATH SAHA & ORS.

...RESPONDENTS

O R D E R

1. Leave granted.
2. This appeal is directed against the judgment and order passed by the High Court of judicature of Calcutta in M.A.T.No.847 of 2008, dated 3rd December, 2008. By the impugned judgment and order, the High Court has issued the following directions:

"....The order under appeal is affirmed in so far as it quashed the re-advertisement and is modified in its remaining part by directing the University to undertake a selection process between the two remaining candidates - the writ petitioner and Subrata Biswas - upon setting down objective standards of evaluation; giving weightage by way of marks to the educational qualifications, experience and performance at a fresh interview of the two candidates that may be taken. In the event, however, that Subrata Biswas is not interested or does not show up at the interview, the appellant should be appointed. The entire exercise should be completed by the university within a period of six weeks from date.

The appeal and the applications are disposed of accordingly. There will be no order as to costs."

3. The facts in nutshell are :

An advertisement was issued by the University some time in the year 2003 to fill up the post of Assistant Director (Adult and Continuing Education and Extension). The said post was reserved for Scheduled Caste (S.C.)/ Scheduled Tribe (S.T.) candidates. Pursuant

to the advertisement issued, several candidates had appeared before the Selection Committee of the University. In the process of selection, the Selection Committee had recommended the name of one Ajit Kumar Mondal, to be appointed for the advertised post. In accordance with the recommendation so made by the Selection Committee, the University had issued the letter of appointment to Shri Ajit Kumar Mondal, which was rejected by him for the reasons best known. This persuaded the University to issue another advertisement/Notification inviting the applications from S.C./ S.T. candidates to fill up the aforesaid vacant post. In the midst of the selection process, Shri Baidyanath Saha-Respondent No.1 had filed a Writ Petition before the High Court in Writ Petition No.16366 (w) of 2007. In the said Writ Petition, the petitioner had primarily called in question the memo that was communicated to the S.C./S.T. Association wherein it was stated that only one person was found eligible by the Selection committee for the post of Assistant Director (Adult and Continuing Education and Extension).

4. The High Court, after notice to all the parties, has issued a writ of mandamus to the University to appoint the Respondent No.1 herein for the aforesaid post. Aggrieved by the order so made, the University had approached the Division Bench of the same High Court. The Division Bench, while rejecting the appeal filed by the University, has issued certain directions, which we have noticed earlier.

5. We have heard the learned counsel for the parties. The learned counsel appearing for the University would bring to our

notice that earlier the post of Assistant Director (Adult and Continuing Education and Extension) was a non-academic post, whereas now the said post has become an academic post. If the statement made by the learned counsel is true and correct, at this stage, we may not be in a position to grant any relief sought for by the Respondent No.1. We also intend to state here that by virtue of the interim orders granted by this Court, the orders and the directions issued by the Writ Court were not implemented by the University.

6. In view of the aforesaid development, we only declare that the direction issued by the Writ Court cannot be implemented by the appellant-University at this belated stage. In that view of the matter, we allow this appeal, set aside the orders and directions issued by the Writ Court as confirmed by the Division Bench in the appeal filed by the University.

7. We also make it clear that, if for any reason, the Respondent no.1 comes to know that the statement made by the learned counsel for the appellant is either incorrect or improper, he is at liberty to make an appropriate application before this Court for recalling/modification of the order passed by this Court.

Ordered accordingly.

.....J.
(H.L. DATTU)

.....J.
(RANJAN GOGOI)

NEW DELHI;
FEBRUARY 12, 2013