

PETITIONER:
THE AMALAPURAM MUNICIPAL COUNCIL & ANR.

Vs.

RESPONDENT:
U. SIMHADRI

DATE OF JUDGMENT: 12/08/1996

BENCH:
RAMASWAMY, K.
BENCH:
RAMASWAMY, K.
G.B. PATTANAIK (J)

CITATION:
JT 1996 (7) 468 1996 SCALE (6) 247

ACT:

HEADNOTE:

JUDGMENT:

O R D E R

Leave granted.

We have heard learned counsel on both sides.

This appeal by special leave arises against the order of the A.P. Admn. Tribunal, Hyderabad dated 10.11.1995 made in O.A. No.1499/94. The admitted facts are that to fill up the post of Chairman, the Chairman of the Municipality called for names from the employment exchange. When the names were sent preceding the selection, the Chairman was a competent authority to make selection without any counter verification of the process of selecting the candidates, pursuant to the Government Memorandum No.372, Municipal Administration dated February 18, 1992. The Government, on becoming aware of the mal-practice being committed in the method of recruitment of the candidates and that undue favouritism was being shown, have issued G.O. No.413, MA dated March 10, 1992 under which though the Committee headed by the Chairman of the Municipality was competent to select the candidates, it was required to be counter-verified by a committee consisting of District Collector (Convener), District Educational Officer in case of recruitment of Municipal School teachers, Regional Joint Director of Municipal Administration and Municipal Commissioner concerned, was constituted to scrutinise the selection and then on the basis of the recommendations so made, the appointment would be made. This was issued with a view to eliminate mal-practices in the selection process. Admittedly, the selection had taken place on March 28, 1992. Though the Commissioner had pointed out in his note that no order of appointment would be issued pending the scrutiny by the Supervisory Committee nominated in the above Government order, yet the Chairman chose to proceed with the appointment; but the Committee, in the meanwhile, had met and recorded that the respondent who was selected by the Chairman had passed only SSC with 207 marks while one of the candidates Shri Kollu Satyanarayana was a B.A. graduate and

secured 224 marks with SSC examination. No reason was given as to why a better candidate was not preferred to a candidate who secured lesser marks. Under those circumstances, the respondent had gone to the Tribunal for a direction. The Tribunal had issued a direction for appointment of the respondent. The Tribunal held that under Section 74 of the Municipalities Act, 1965, the Chairman was the competent authority on the date the selection process was initiated the above G.O. had not come into force and, therefore, the Chairman was the competent authority to select and appoint the candidate. Accordingly, the direction came to be issued. Thus this appeal by special leave.

It cannot be disputed that as on that date under Section 74, the Chairman was the competent authority to make appointment of the staff of the municipality. Subsequently, the Act came to be amended in 1994 giving the power to the Commissioner of the Municipality with which we are not concerned. Though the selection process had started as names had been from the employment exchange on the day of selection, namely, March 28, 1992, G.O. was in force w.e.f. March 10, 1992. Consequently, any selection made by a Committee headed by the Chairman would be subject to the scrutiny by the Scrutiny Committee referred to hereinbefore, In spite of the fact that the Commissioner had pointed out the above rule and had also issued directions not to proceed with finalisation of selection and the Scrutiny Committee having pointed out the irregularity of selection, nonetheless selection came to be finalised which the Tribunal has directed to be implemented. Under the above circumstances, we are of the view that the Tribunal was not justified in giving direction to make the appointment of the respondent.

The appeal is dismissed. It is open to the Municipality to conduct fresh selection to the post and select the candidates according to the qualifications and merits and proceed with the appointments as per the rules. No costs.