

Amalapuram Municipal Council and Another

Vs

U. Simhadri

Civil Appeal No. 10991 of 1996

(K. Ramaswamy, G. B. Pattanaik JJ)

12.08.1996

ORDER

1. Leave granted.

2. We have heard learned counsel on both sides.

3. This appeal by special leave arises against the order of the A.P. Administrative Tribunal, Hyderabad dated 10-11-1995 made in OA No. 1499 of 1994. The admitted facts are that to fill up the post, 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 18-2-1992. The Government, on becoming aware of the malpractice being committed in the method of recruitment of the candidates and that undue favouritism was being shown, have issued GO No. 413, MA dated 10-3-1992 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 (Convenor), District Educational Officer in case of recruitment of Municipal School teachers, Regional Joint Director of Municipal Administrative 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 malpractices in the selection process. Admittedly, the selection had taken place on 28-3-1992. 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 in the 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.

4. 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 called from the employment exchange, on the day of selection, namely, 28-3-1992, GO was in force w.e.f. 10-3-1992. 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 that 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.

5. 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.