

SUPREME COURT OF INDIA

Vinod

Vs.

Collector and Chairman, District Selection Committee

C.A.No.3352/2018

(Kurian Joseph,J., and Mohan M. Shantanagoudar and Navin Sinha,JJ.,)

28.03.2018

JUDGMENT

Kurian joseph, J.,

SLP (C)No. 7492/2018

1. Leave granted.
2. In the nature of order we propose to pass, it is not necessary to issue notice to the respondents since the interest of the respondents is not otherwise affected.
3. The appellant has been non-suited by the High Court on the ground that the second writ petition filed is not maintainable, having withdrawn earlier writ petition without any leave.
4. The order dated 28.07.2016 passed in the earlier Writ Petition No.2748/2016 reads as follows:-

"Shri V.A. Dhabe, the learned counsel for the petitioner seeks permission to withdraw the Writ Petition. Permission is granted. The Writ Petition stands disposed of as withdrawn."
5. It is fairly clear that the petition was withdrawn only on account of the pendency of the appeal. Apparently, that is why the High Court has, in fact, not dismissed the petition; it has only disposed it of.
6. In the second writ petition leading to the impugned judgment, there is a specific prayer, which reads as follows:-

"(iii) quash and set aside the communication dated 3.9.2016 at Annexure-10 issued by respondent No.5 being violative of principles of natural justice and bad in law;"

7. It appears that the prayer challenging the subsequent order passed in appeal was not brought to the notice of the High Court.

8. In that view of the matter, the writ petition certainly is maintainable. Accordingly, we set aside the impugned judgment with a request to the High Court to consider Writ Petition No.484/2017 on merits.

9. We make it clear that we have not considered the merits of the matter.

10. The appellant is also directed to serve a copy of this judgment along with a copy of this petition/appeal to the respondents.

11. The appeal is, accordingly, disposed of.

12. Pending applications, if any, shall stand disposed of.

13. There shall be no orders as to costs.