

HIGH COURT OF JAMMU AND KASHMIR AT JAMMU

Case:- LPASW No.63/2014, MP No.69/2014

Date of order:02.09.2015

Dr. Akshay Tickoo vs. S.M.V.D.U and anr

Coram:

Hon'ble Mr. Justice Muzaffar Hussain Attar
Hon'ble Mr. Justice B. S. Walia

Appearing counsel:

For appellant(s) : Mr. Sunil Sethi Sr. Advocate with
Mr. Ankesh Chandel Advocate.

For respondent(s) : Mr. D.C.Raina Sr. Advocate with
Mr. Anil Verma Advocate.
Mr.Vikas Magotra Advocate.

i)	Whether to be reported in Digest/Journal	:	Yes
ii)	Whether approved for reporting in Press/Media	:	Yes/No

Muzaffar Hussain Attar (Oral):

Appellant-writ petitioner filed writ petition against Shri Mata Vaishno Devi University through Registrar as also against the Vice Chancellor of the said University, which writ petition came to be dismissed by the learned Writ Court in terms of order dated 24th of February, 2014 by holding that Shri Mata Vaishno Devi University is neither State nor an authority within the meaning of Article 12 of the Constitution of India. It was further held that the writ petitioner can avail alternative remedy.

In the writ petition, the appellant-writ petitioner claimed infraction of statutory provisions/regulations at the hands of the respondents.

When enforcement of statutory provisions/regulations or their infraction is claimed in the writ petition against a institution, the writ petition will be maintainable, notwithstanding the fact that the institution is neither Government nor an authority under Article 12 of Constitution.

Further in view of the law laid down by Hon'ble Supreme Court in case titled **Board of Control for Cricket in India vs. Cricket Association of Bihar and ors**, reported as **2015 (5) Supreme-705**, the respondent-University which is discharging the public functions would be amenable to the writ jurisdiction of the Court.

Mr. D.C. Raina learned senior counsel, in his fairness, conceded the above stated legal position and submitted that the respondent-University would be amenable to the writ jurisdiction.

Declining to entertain the writ petition on the ground of availability of alternative remedy is not rule of law or rule of thumb, but the Court, in such circumstances, can direct the aggrieved person in the first instance to avail the alternative remedy, but that, in all circumstances, would not become the ground to dismiss the writ petition.

For the aforesaid reasons, impugned judgment is set aside and the matter is remanded back to the learned Writ

Court. We request the learned Writ Court to decide the case on merits at the earliest.

Registry to list the writ petition before the learned writ Court having the roster in the next regular cause list, reflecting the name of learned counsel for the parties.

(B. S. Walia) (Muzaffar Hussain Attar)
Judge Judge

Jammu
02.09.2015
Sanjeev