

COMMISSIONER/SECRETARY TO GOVERNMENT HEALTH
AND MEDICAL EDU. DEPTT. CIVIL SECTT., JAMMU

A

v.

DR. ASHOK KUMAR KOHLI

OCTOBER 31, 1995

B

[K. RAMASWAMY AND B.N. KIRPAL, JJ.]

Practice & procedure :

Writ petition before High Court—Interim directions—Held, High Court not justified in passing interim relief which amounted to over reaching the main relief.

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The respondent was selected by the State Public Service Commission and was placed at serial No. 4, in the select list. Since he was not appointed he filed a Writ petition in the High Court. The State Government resisted the claim contended that the select list stood lapsed with the expiry of one year. This was denied by the respondent. The High Court passed certain interim orders and later passed an order directing the appellant to be present before the Court and to explain as to why and for which reasons the Court order was not complied with. Aggrieved, the State filed the appeal by special leave.

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Disposing of the appeal, this Court

HELD : The High Court was not justified in calling upon the Government to implement the interim directions. It would amount to over reaching the main relief which ultimately may or may not be passed in the writ petition. The said directions stand set aside. [624-F]

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CIVIL APPELLATE JURISDICTION: Civil Appeal No. 10403 of 1995

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From the Judgment and Order dated 29.5.95 of the Jammu & Kashmir High Court in C.O.A. (SWP) No. 236 of 1995.

Ashok Mathur for the Appellant.

Anu Mohla, Yatish Mohan and Ranjit Kumar for the Respondent.

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A The following Order of the Court was delivered :

Leave granted.

We have heard the counsel on both sides. We are concerned in this appeal with clause (i) of the order dated May 29, 1995, namely, "the

B commissioner-cum-Secretary to Government, Health and Medical Education Department, Jammu shall present himself in the Court on the next date to inform the Court as to why and for what reasons the Court order has not been complied with." with regard to clause (ii) of the order, we are not interfering.

C It would appear that Dr. Ashok Kumar Kohli was one of the candidates selected by the Jammu & Kashmir Public Service Commission and stood at No. 4 in the select list. He was not appointed to the post of lecturer in Ophthalmology Department of Jammu & Kashmir. He sought a writ of mandamus in W.P. 458/94. Pending disposal of the writ petition,

D certain directions seems to have been issued by the High Court and for its non-compliance, the above order came to be passed. For his entitlement to be appointed to the post pursuant to the selection made by the Public Service Commission, Dr. Ashok Kumar Kohli has taken the stand that the select list had not lapsed while the Government's stand is that the list stood

E lapsed with the expiry of one year. Since the writ petition is pending, we are not expressing any opinion on merits. Suffice it to say that since the controversy is yet to be decided, perhaps the High Court may not be justified in calling upon the Government to implement the interim direction. In other words, it would amount to over reaching the main relief which ultimately may or may not be passed in the writ petition. The aforesaid

F directions stand set aside and the second direction not to make any appointment to a post of Lecturer in Ophthalmology Department in any of the medical colleges pending disposal, stands confirmed. The High Court is requested to dispose of the writ petition as expeditiously as possible preferably within a period of six weeks from the date of the receipt of this order. The appeal is accordingly disposed of. No costs.

R.P.

Appeal disposed of.