

Supreme Court of India

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All Kerala Parents Association vs State Of Kerala on 11 September, 2002

Equivalent citations: 2003 (2) WLN 692

Bench: G Pattanaik, R Pal

ORDER

1. This appeal is directed against the judgment of the Division Bench of Kerala High Court. The present appellants approached the High Court making a grievance that the provision of Section 39 of the Persons with Disabilities (Equal Opportunities Protection of Rights and Full Participation) Act, 1995 (hereinafter referred to as the "Act") is not being given effect to inasmuch as the Government educational institution as well as institution receiving aid from the Government are not reserving three percent of seats for persons with disabilities, as contemplated under Section 39 of the Act. The High Court by the impugned judgment on analysing the provisions of the Act has come to the conclusion that since Section 39 occurs in Chapter VI dealing with employment, the expression "seats" in S, 39 would really mean "post" and the question of reservation of seats for appointment in educational institutions would not arise under Section 39, as, the education has been dealt with in Chapter V. It is no doubt true that Chapter V deals with education containing Section 26 to Section 31 and Chapter VI deals with employment containing Section 32 to Section 41. In Chapter VI itself so far as reservation in post is concerned, the same is provided in Section 33. Section 33 is quoted herein below in extenso:

"Section 33. Reservation of Posts.- Every appropriate Government shall appoint in every establishment such percentage of vacancies not less than three per cent for persons or class of persons with disability of which one percent each shall be reserved for persons suffering, from-

(i) blindness or law vision;

(ii) hearing impairment;

(iii) locomotors disability or cerebral palsy in the post identified for each disability:

Provided that the appropriate Government may, having regard to the type of work carried on in any department or establishment, by notification subject to such conditions, if any, as may be specified in such notification, exempt any establishment from the provisions of this section".

2. Section 39 is reproduced herein below in extenso:

"Section 39. All educational institutions to reserve seats for persons with disabilities.- All Government educational institutions and other educational institutions receiving aid from the Government, shall reserve not less than three per cent seats for persons with disabilities."

3. The aforesaid Section 39 unequivocally deals with the question of reservation of seats for persons with disabilities in educational institutions of the Government, as well as institutions receiving aid from the Government. The language is clear and unambiguous, which itself indicates the legislative intent. It is well settled that when the language of any statutory provisions is clear and unambiguous, it is not necessary to look for any extrinsic aid to find out the meaning of the statute inasmuch as the language used by the Legislature is the indication of the legislative intent. We fail to understand as to how and on what principles of construction the High Court has given a construction to the provisions of Section 39 not only by doing violence to language of Section 39, but also rewriting the provisions of Section

39. If Section 39, as has been construed by the High Court, would be interpreted to mean it relates to employment merely because the provision occurs in the Chapter VI dealing with employment then the

"educational institutions" would have to be interpreted to mean the Government post and the question of receiving aid from the Government would not arise at all. Natural and ordinary meaning of words should not be departed from unless it can be shown that legal context in which the words are used requires a different meaning. We have therefore no hesitation to come to the conclusion that the High Court was wholly in error in construing Section 39 of the Act to mean it relates to reservation in Government employment and not in relation to admission of students with disabilities in the Government institutions as well as educational institutions receiving aid from the Government. Further, reservation in Government employment is provided under Section 33 of the Act. We, therefore, set aside the impugned judgment of the Kerala High Court and hold that Section 39 deals with the reservation of seats for persons with disabilities in Government educational institutions as well as educational institutions receiving aid from the Government, and necessarily therefore the provisions thereof must be complied with.

4. The appeal is accordingly allowed.