

Dr Jitarani Udgata vs Union Of India & Anr on 9 September, 2021

Author: Rajiv Shakdher

Bench: Rajiv Shakdher, Talwant Singh

\$~8 [2021]

* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ LPA 315/2021
DR JITARANI UDGATA

Through: Mr. Ashish Mohan with Mr.
Kumar Hukumchand, Advs.

versus

UNION OF INDIA & ANR.

Through: Mr. Gagan Kumar, Adv. fo
Mr. Aman Raj Gandhi, Adv

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE TALWANT SINGH

ORDER

% 09.09.2021

[PHYSICAL COURT HEARING]

1. Allowed, subject to just exceptions.

2. This is an application filed on behalf of the appellant to bring on record additional documents.

3. Mr. Gagan Kumar, who appears on behalf of respondent no.1, and Mr. Aman Raj Gandhi, who appears on advance notice on behalf of respondent no.2, in effect, the contesting respondent, say that, they have no objection to the application being allowed, subject to liberty being given to them to file documents, if necessary, in response, to explain the import and effect of the documents sought to be brought on record by the appellant.

4. Accordingly, the prayer made in the application is allowed, with liberty to the respondents, as prayed for.

5. The application is disposed of in the aforesaid terms.

6. This appeal is directed against the order of the learned single judge, dated 9.7.2021, whereby, the appellant's writ petition was dismissed, based on a preliminary objection advanced on behalf of respondent no.2. 6.1. The learned single judge, in a nutshell, observed that, the writ petition is not maintainable, as respondent no.2 does not have the attributes of State and/or its instrumentality.

6.2. The learned single judge also observed that, the functions carried out by respondent no.2 will not have a public law character.

7. Mr. Ashish Mohan, who appears on behalf of the appellant, points out that, another learned single judge of this Court, vide judgment dated 10.2.2021, passed in W.P.(C.) No.4286/2020 in respect of another such Council i.e., Apparel Export Promotion Council, has taken a contra view. 7.1. According to Mr. Mohan, an appeal has been preferred against the said judgment, which is numbered as LPA 152/2020, and the same is listed before this Court on 20.9.2021.

8. Mr. Gandhi says that, since additional documents have been taken on record, he would like to file a reply to the assertions made in the appeal.

9. Accordingly, issue notice.

9.1. Mr. Kumar accepts notice on behalf of respondent no.1 while Mr. Gandhi accepts notice on behalf of respondent no.2. 9.2. Reply(ies) be filed within four weeks from today. Rejoinder(s) thereto, if any, will be filed before the next date of hearing.

10. Besides what has been indicated above, counsel for the parties will file their written submissions not exceeding three pages each, at least, three days before the next date of hearing.

10.1 The written submissions filed by the appellant, apart from anything else, will demonstrate as to how respondent no. 2 is controlled by the State, administratively, financially, as also functionally. The public law character, if any, concerning the functions carried out by respondent no.2, shall also be alluded to in the written submissions.

11. List the matter on 24.11.2021.

RAJIV SHAKDHER, J TALWANT SINGH, J SEPTEMBER 9, 2021/pmc Click here to check corrigendum, if any