

IN THE HIGH COURT OF KERALA AT ERNAKULAM**PRESENT****THE HONOURABLE MR.JUSTICE V.G.ARUN****Wednesday, the 5th day of January 2022 / 15th Pousha, 1943****W.P.(C) NO. 30638 OF 2021 (D)****PETITIONER:**

AISHWARYA MOHAN, AGED 25 YEARS, D/O RAMMOHAN P.P., RESIDING AT FLAT NO.6B, VISHRAAM PALAISE GRANDE, KANATTUKARA, THRISSUR-680011.

RESPONDENTS:

- 1. UNION OF INDIA, REPRESENTED BY SECRETARY, MINISTRY OF POWER, SHRAM SHAKTI BHAWAN, RAFI MARG, NEW DELHI-1.**
- 2. NATIONAL THERMAL POWER CORPORATION LIMITED, REPRESENTED BY CHAIRMAN AND MANAGING DIRECTOR, NTPC BHAWAN, SCOPE COMPLEX-7, INSTITUTIONAL AREA, LODHI ROAD, NEW DELHI-110003.**
- 3. CHAIRMAN AND MANAGING DIRECTOR, NATIONAL THERMAL POWER CORPORATION LIMITED, NTPC BHAWAN, SCOPE COMPLEX 7, INSTITUTIONAL AREA, LODHI ROAD, NEW DELHI-110003.**
- 4. GENERAL MANAGER (HR), NATIONAL THERMAL POWER CORPORATION LIMITED, NTPC BHAWAN, SCOPE COMPLEX, 7, INSTITUTIONAL AREA, LODHI ROAD, NEW DELHI-110003**
- 5. DEPUTY GENERAL MANAGER (HR), NATIONAL THERMAL POWER CORPORATION LIMITED, NTPC BHAWAN, SCOPE COMPLEX, 7, INSTITUTIONAL AREA, LODHI ROAD, NEW DELHI-110003**
- 6. MANAGER (HR), NATIONAL THERMAL POWER CORPORATION LIMITED, NTPC BHAWAN, SCOPE COMPLEX, 7, INSTITUTIONAL AREA, LODHI ROAD, NEW DELHI-110003**

Writ petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to

(i) direct the 2nd, 3rd, 4th, 5th and 6th respondent to provisionally accept the application of the petitioner to the post of Assistant Law Officer at E0 level at 2nd respondent Corporation; and

(ii) stay the selection process initiated vide Ext.P3 notification until this writ petition is heard and finally disposed of.

This petition coming on for admission upon perusing the petition and the affidavit filed in support of WP(C) and upon hearing the arguments of SRI.MAITREYI SACHIDANANDA HEGDE, Advocate for the petitioner and of SRI.S.MANU, ASSISTANT SOLICITOR GENERAL OF INDIA & N.S.DAYA SINDHU SHREE HARI, Central Government Counsel for Respondents, the court passed the following:

[P.T.O.]

V.G.ARUN, J.

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W.P(C). No.30638 OF 2021

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Dated this the 05th day of January, 2022

ORDER

The petitioner is an aspirant to the post of Assistant Law Officer notified by the 2nd respondent/National Thermal Power Corporation Limited. The petitioner has the notified qualification of 60% marks in Bachelor's Degree in Law and registration with the Bar Council. The petitioner is presently pursuing her studies in LLM at the Cochin University of Science and Technology and is aggrieved by the discriminatory manner in which the selection process is being confined to candidates who have appeared for CLAT-2021 Post Graduation programme.

2. Learned Counsel for the petitioner submitted that, being a public sector undertaking falling within the

definition of Article 12 of the Constitution, the NTPC cannot shut out the chances of persons like the petitioner, merely for the reason that she is pursuing her Post Graduation programme in a University that is not part of the consortium of National Law Universities. It is argued that there is no nexus between the objective sought to be achieved by imposing such a condition, since CLAT exam is meant for assessing academic brilliance of students, whereas the NTPC is seeking to select the best among legal professionals. Reliance is placed on the decision of the Hon'ble Supreme Court in ***Lt. Col. Nitisha and others v. Union of India and others [2021 SCC online SC 261]*** to contend that the imposition of such restrictive condition amounts to indirect discrimination.

3. Countering the contentions, learned ASGI submitted that, fixing the eligibility criteria for appointment to a particular post is the absolute

prerogative of the employer. The NTPC is on the look out for Executives (Law Officers) with certain specific set of skills, who are able to understand the nuances of the power sector. CLAT is a national level examination conducted by the Consortium of National Universities for filtering and selecting the brightest students. Being convinced of the standard of law graduates selected through CLAT PG programmes, not only the NTPC, but various other PSUs are following the same process.

4. Having heard the learned Counsel on either side, I find more merit in the contentions urged by learned Counsel for the petitioner. The question arising for consideration is whether, after having prescribed LLB degree from any recognised Indian University with 60% marks as qualification, the eligibility criteria can be restricted to candidates who have appeared for CLAT-2021 Post Graduation Programme and CLAT score made the basis for selection. I am of the *prima facie*

opinion that the condition is discriminatory. The ancillary question is whether persons having requisite qualifications can be compelled to appear for the CLAT Post Graduation Programme as a condition precedent for accepting their applications. Even if the CLAT exam conducted by the Consortium of National Law Universities is capable of selecting the brightest students, that is no justification for thwarting the career prospects of law graduates like the petitioner.

Hence, the competent among the respondents is directed to accept the application to be submitted by the petitioner, subject to the final outcome of this writ petition. It is pointed out that applications are to be submitted online and the system may not accept the applications which are not in conformity with the notification. For the present, the petitioner is permitted to submit her application by logging on to the website mentioned in Exhibit P3. If the application is not

accepted by the system, that can be brought to the notice of this Court.

The respondents shall file detailed counter affidavit.

Post on 20.2.2022.

Sd/-

**V.G.ARUN
JUDGE**

NB/5-1



Exhibit P3

**TRUE COPY OF THE NOTIFICATION WITH RESPECT TO THE
APPLICATION FOR THE POST OF ASSISTANT LAW OFFICER AT E0
LEVEL FOR ITS VARIOUS PROJECTS/ STATIONS.**

