

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

TUESDAY, THE 10TH DAY OF AUGUST 2021 / 19TH SRAVANA, 1943

WP(C) NO. 15503 OF 2021

PETITIONER:

 (MINOR) ,
BORN ON 01.10.2003, REPRESENTED BY HER FATHER

BY ADVS.
MANU GOVIND
RAVI KRISHNAN

RESPONDENTS:

- 1 THE NATIONAL INSTITUTE OF DESIGN,
REPRESENTED BY ITS DIRECTOR, PALDI AHMEDABAD,
GUJARAT-380 007.
- 2 THE ADMISSION CELL,
NATIONAL INSTITUTE OF DESIGN,
PALDI AHMEDABAD, GUJARAT-380 007.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 10.08.2021, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

P.B.SURESH KUMAR, J.

W.P.(C) No.15503 of 2021

Dated this the 10th day of August, 2021

J U D G M E N T

Petitioner applied for admission in the first respondent Institute for B.Des (Bachelor of Design) course. A centralized all India selection process is conducted by the first respondent for admission to the said course. The selection process has two stages, preliminary and main. The petitioner has successfully cleared the preliminary stage of the selection process. Thereafter, the petitioner participated in the main examination, which consists of two parts, namely, 'Studio Test' and 'Interactive Session'. The first part - Studio Test is conducted through Portfolio Presentation and/or Theme Poster

Presentation and the second part - Interactive Session is a test judged by three panel members, wherein the candidates are either given creative tasks or they would be asked questions. The petitioner participated in Studio Test and thereafter she was called for Interactive Session. It is stated that when the results were announced, the first respondent declared that the marks obtained by the candidates for Studio Test have not been taken into account for the purpose of preparing the list of students selected for admission. The petitioner is aggrieved by the said decision of the first respondent. She, therefore, seeks directions to the respondents to recalculate the rank position taking into account the marks obtained by her for Studio Test also.

2. Heard the learned counsel for the petitioner.

3. When the matter was taken up for admission, this Court entertained a doubt as to whether the writ petition seeking the relief aforesaid against the respondents located in the State of Gujarat is maintainable before this Court. When

the learned counsel for the petitioner was asked to clarify the said aspect, the learned counsel for the petitioner has taken the stand that insofar as a part of the cause of action for instituting the writ petition has arisen within the territorial limits of the State of Kerala, this Court has jurisdiction to entertain the writ petition, in the light of the provision contained in Article 226(2) of the Constitution. When the learned counsel was required to explain the premise on which it was stated by him that a part of the cause of action for instituting the writ petition has arisen within the jurisdiction of this Court, it was explained by the learned counsel that all the tests for selection have been conducted online and the petitioner has participated in the tests online from the State of Kerala.

4. It is now trite that a writ petition can be instituted only in a High Court within the territorial jurisdiction of which an integral part of the cause of action has arisen [see **Indian Maritime University v. Viswanathan**, 2014 (4) KLT

798]. In the case on hand, the first respondent institute is located in the State of Gujarat. The various tests which are part of the selection process have been conducted by the respondents in the State of Gujarat. The select list, which is impugned in the writ petition, has also been prepared and published by the respondents in the State of Gujarat. In other words, no part, much less any integral part of the cause of action has arisen within the territorial jurisdiction of this Court.

5. Of course, since the tests for selection have been conducted online, candidates were given liberty to participate in the selection process from anywhere in the world. The question is whether this Court can entertain a writ petition merely for the reason that the petitioner has participated in the selection process online from the State of Kerala. Acceptance of the argument that the situs from where the candidate accessed the first respondent for participating in the selection process will determine the jurisdiction, would lead to a situation that the litigant would be in a position to choose his own Court for

the purpose of redressal of his grievance. No litigant has a right to choose the Court for seeking the relief, and Article 226(2) of the Constitution does not alter that position [See **Nakul Deo Singh v. Deputy Commandant**, 1999 (3) KLT 629].

For the reasons aforesaid, I am of the view that the writ petition seeking the relief aforesaid is not maintainable before this Court. The writ petition is, accordingly, dismissed as not maintainable.

Sd/-

P.B.SURESH KUMAR, JUDGE.

YKB

APPENDIX OF WP (C) 15503/2021

PETITIONER EXHIBITS

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| Exhibit P1 | TRUE COPY OF THE LETTER DATED NIL FROM THE 2ND RESPONDENT ACCEPTING THE PETITIONERS REGISTRATION AND PROVIDING THE PARTICULARS OF DATE OF CONDUCT OF DAT AS 14.03.2021. |
| Exhibit P2 | TRUE COPY OF THE COMMUNICATION DATED 19.06.2021 SENT TO THE PETITIONER THROUGH EMAIL. |
| Exhibit P3 | TRUE COPY OF THE COMMUNICATION INTIMATING THE PETITIONER OF HER ALL INDIA POSITION AS RANK 648. |
| Exhibit P4 | TRUE COPY OF THE REPRESENTATION DATED 28.07.2021 BY THE PETITIONERS FATHER TO THE 2ND RESPONDENT. |
| Exhibit P5 | TRUE COPY OF THE NOTICE DATED 04.06.2021 FROM THE RESPONDENT. |
| Exhibit P6 | TRUE COPY OF THE EMAIL DATED 30.06.21 FROM THE 2ND RESPONDENT TO THE PETITIONER. |