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**(1992) 01 KL CK 0039**

**High Court Of Kerala**

**Case No:** O.P. No. 396 of 1992-V

Rhomy Chandra Mohan

APPELLANT

Vs

General Convenor and Others

RESPONDENT

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**Date of Decision:** Jan. 9, 1992

**Acts Referred:**

- Constitution of India, 1950 - Article 226

**Citation:** (1992) KLJ 515

**Hon'ble Judges:** T.L. Viswanatha Iyer, J

**Bench:** Single Bench

**Advocate:** M.M. Abdul Aziz, for the Appellant; Jose K. Kochupappu, Government Pleader, for the Respondent

**Final Decision:** Dismissed

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### **Judgement**

T.L. Viswanatha Iyer, J.

There is no doubt that the Petitioner is a talented girl. But that does not mean that there cannot be more talented people. It is evident from Exts. P-1 to P-20 that the Petitioner is proficient in various fine arts. But that again does not mean that she should always be ranked first in whatever competition she participates. There can always be one better, who could be awarded a higher rank. Inability to accept this fact has led to this Writ Petition.

2. Petitioner's grievance is against her being awarded rank A grade II only in Bharatanatyam, as against A grade I aspired for. She is therefore not eligible to participate in the Trichur District Yuvajanotsavam, scheduled to be held on 23rd, 24th and 25th January, 1992 at Cherpu, Petitioner states that she is a highly accomplished girl in support of which she refers to Exts. P-1 to P-20. Her case is that she should have been awarded A grade I and thereby rendered eligible to participate in the Yuvajanotasavam instead of being awarded only A grade II. She has filed a petition complaining about her being relegated to A grade II as per Ext.

P-21, and making request for being furnished with the names of the Judges for Bharatanatyam and the address of the student who secured A grade I, in Bharatanatyam in the Mala Sub District Yuvajanotsavam held on 31st December 1991. But the request was refused. It is thereafter that this Original Petition is filed.

3. The prayer in the original petition is to declare that the refusal to award A grade I to the Petitioner in the competition for Bharatanatyam held on 31st December 1991 in the Mala Sub District Yuvajanotsavam is illegal, and further to declare that the award of A grade I to one T.V. Rekha is illegal and void. This Rekha is not a party to the original petition, for which the excuse given by the Petitioner, as stated earlier, is that the request made in Ext. P-21 to furnish the address of this student was not acceded to.

4. It needs no reiteration that the award of marks and ranks in a contest of this nature is primarily the duty and responsibility of the Judges who have been appointed to judge on the merits or demerits of the various contestants. It is also a well-known fact that the ultimate difference between the top notchers in such contests is very often marginal and little and the ranks go by very low differences in marks. But that is inevitable. The judges who are experts react differently from different angles and they have different perceptions. It is not possible to have any absolute standards or absolute judges who react alike in all situations. It is precisely because of this that there is a multiplicity of judges for such contests, so that the individual predilections or tastes or ideas of one are offset by the sensitivities of the Others. Since computers cannot be judges, nor the judges automatons, differences based on individual perceptions are inevitable and have to be accepted. This system of assessment has therefore been adopted for the purpose of assessing the relative merit and the authorities have to depend upon the judgment of the judges appointed for the purpose. Maybe a different set of judges may take a different view of the matter. But that does not mean the assessment of merits by one set of judges is lacking in validity or otherwise irregular. Assessment of merit is ultimately a matter of objective assessment by a set of impartial judges guided by relevant principles. If that be so, the fact that the Petitioner did not get A grade I and was awarded only A grade II cannot be found fault with. As stated earlier, the assessment was made by judges competent for the purpose. It is not possible for this Court to sit in appeal over such awards in a proceeding under Article 226 of the Constitution. It is not within the province of this Court to reassess the merits or demerits of candidates participating in a competition made by competent judges appointed for the purpose. This Court can interfere only when there is a plain illegality or some mala fides or some perversity or some other grossly vitiating circumstance in the assessment of merit. So far as that aspect is concerned, the Petitioner has raised certain grounds in the original petition. According to him, the judges who assessed the merits of the Bharatanatyam candidates were substitutes appointed on the spot for the original judges, without any enquiry regarding their qualifications for appointment as judges. It is also stated that Unnikrishnan, one of

the judges was only a student studying Bharatanatyam and that Smt. Babita is from the same district. Thereby, it is stated, both of them are not qualified to be appointed as judges. It is also pointed out that no video photography of the competition was taken despite the mandate of the Rules for the purpose.

5. I do not think these factors vitiate the assessment of the merits. As stated earlier, the assessment of merits depends on an objective view taken by impartial judges appointed for the purpose. The Petitioner or her parents did not at the time of the competition raised any objection to the eligibility or the qualifications of the judges who were appointed for assessing the merits of the Bharatanatyam candidates. Having sat on the fence and taken the chance of a decision with the judges who have been appointed, it is not open to the Petitioner to contest the very eligibility of the judges when once the decision goes against her. This Court will not, in exercise of the jurisdiction under Article 226 entertain such challenges, from a defeated candidate. It must also be mentioned that the judges have been appointed by the concerned authorities, who are interested in the proper conduct of the festival and the proper assessment of merit. There is no case anywhere in the original petition that the Respondents acted mala fide or with a hostile attitude towards the Petitioner which made them select particular persons as judges.

6. The assessment of merit in such cases depends on the objective assessment made by judges appointed for the purpose. The fact that the Petitioner was awarded only A grade II by the set of judges in question is not therefore open to challenge in a proceeding under Article 226. At the same time I do not find any reason for frustration on the part of the Petitioner. After all, the difference between the first and second rank holders is only a matter of shade and not a matter of substance. If the true spirit of the festival; namely, healthy competition, is inculcated, there will be no cause for any grievances. It is not possible for this Court to interfere with such assessment of merit in the absence of any other challenge to the same. I decline to entertain this Original Petition. It is accordingly dismissed.