

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **Writ Petition (Civil) No.1854/2008**

% Date of Decision : March 10, 2008

Chandra Sain Petitioner

Through : Nemo

Versus

The Chairman, D.S.S.S. Board & Anr. Respondents

Through : Mr. Amiet Andlay,
Advocate

CORAM:

HON'BLE MR. JUSTICE SUDERSHAN KUMAR MISRA

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not ? Yes
3. Whether the judgment should be reported in the Digest ? Yes

SUDERSHAN KUMAR MISRA, J : (Oral)

1. The matter has been passed over and there has been no appearance on behalf of the petitioner even on the second call.

2 The petitioner is aggrieved of the rejection of his candidature apparently conveyed to him by the respondent by letter dated 16th November, 2006 on the ground that he did not possess essential qualifications.

3. According to the petitioner, before taking any decision to reject his candidature, the respondent was obliged to give him an opportunity to be heard in the matter.

4. It is the petitioner's case that after receiving his rejection letter dated 16th November, 2006 from the respondent, he approached the Deputy Secretary of the Scrutiny Cell of the respondent seeking

further particulars about the decision taken by the respondent rejecting his candidature. He claims that the Deputy Secretary informed him that his mark sheets are false. According to the petitioner, after disclosing this information, no further cooperation was extended to the petitioner by the respondent.

5. The petitioner also claims that immediately thereafter, he discovered that although the respondent had rejected his candidature, his friend, namely Mr. Sohan Pal son of Sh. Chandra Bhan, was allotted a roll number and permitted to sit in the selection examination to be held on 24th December, 2006 despite the fact that Mr. Sohan Pal possessed the same qualifications as that of the petitioner.

6. It appears that thereafter the petitioner filed an application under the Right to Information Act on 14th December, 2006 asking the respondent to disclose why his candidature has been rejected outright whereas his friend, Mr. Sohan Pal who possesses identical qualifications was considered qualified to take the selection examination. In reply, the respondent informed the petitioner, inter alia, that they had also issued a show cause notice to him and since he failed to reply to the show cause notice within the time granted, the respondent took the impugned decision. The petitioner claims that he never received any show cause notice.

7. Learned counsel for the respondent states although the relevant information about the required qualifications was duly given to the petitioner and has also been annexed by the petitioner himself in Annexure-A at page 23 of the writ petition, the petitioner has failed to disclose as to whether he holds the requisite qualifications.

8. In any case, I find that this petition has been filed belatedly. The petitioner's candidature was admittedly rejected on 16th November, 2006. Thereafter on 13th December, 2006, he claims to have approached the respondent's office. On the next day i.e. 14th December, 2006, he also applied for information under the Right to Information Act which was supplied to him on 22nd January, 2007. He applied for further information on 31st January, 2007. To this also, he had received a reply by 21st February, 2007. Even thereafter, he has waited for one year before approaching this Court. No explanation is given to indicate why he could not approach this Court earlier. The relevant selection was to be held on the basis of a competitive examination which has already been held some time in December, 2006. The cause of action, if any, accrued in his favour on 16th November, 2006. Whilst the petitioner is seeking relief to the effect that the letter communicating his rejection on 16th November, 2006 be quashed and that his candidature be considered with retrospective effect with all consequential benefits, the fact of the matter is that not only has the relevant examination been held in December, 2006; counsel for the respondent informs me that the vacancies that existed on that date have already been filled. He also states that thereafter, the next examination of 2007 has also been held.

9. As I have already stated, for a cause of action that may have accrued in favour of the petitioner on 16th November, 2006 pertaining to an examination to be held in December, 2006; I do not see any reason for this Court to entertain this petition after more than one year and four months, that too when the next examination of 2007 is also over. Under the circumstances and keeping in mind the maxim, ***Vigilantibus, et non dormientibus, jura subveniunt*** – the

vigilant and not the sleepy are assisted by the laws; It would not be appropriate for this Court to entertain this petition at this late stage.

10. The writ petition is dismissed.

Sudershan Kumar Misra, J.

March 10, 2008
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