

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

+ **W.P.(C) No.2429/2008**

% **Date of decision : 11.04.2008**

Shekhar & Ors Petitioners

Through: Mr.R.K.Saini, Advocate.

Versus

MCD & Anr Respondents

Through: Mr.Sanjeev Sabharwal, Advocate.

CORAM :-

HON'BLE MR. JUSTICE ANIL KUMAR

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| 1. Whether reporters of Local papers may be allowed to see the judgment? | YES |
| 2. To be referred to the reporter or not? | NO |
| 3. Whether the judgment should be reported in the Digest? | NO |

ANIL KUMAR, J.

1. The petitioners have prayed for quashing the action of the respondents in trying to fill up the vacancies of "Safai Karamchari" (SK) from outside the approved list of 1275 candidates who had allegedly earlier worked during the sanitation drive, in violation of rules, regulations and policies and principles of equity, justice and good conscience.

2. The petitioners have contended that a list of 1275 candidates who had earlier worked during the sanitation drive was prepared. According

to the petitioners workers other than those whose name appears in the list are not entitled for appointment. The allegation of the petitioners is that now the respondents are trying to employ people other than those who are in the approved list of 1275 candidates.

3. The plea of the petitioners is that the list was prepared by sanitation department (South Zone), Green Park, MCD, New Delhi on 21st December, 1998 and an office note was put up on 21st April, 2000 that keeping in view the difficulties being faced in maintaining cleanliness, hygiene and sanitation, the Zonal Commissioner had approved the said list on 7th January, 2000. According to the petitioners this note was further put up for approval from the Additional Commissioner, Headquarter who wrote a further note that in the South Zone the said list be adhered strictly as per seniority and no fresh person should be engaged till such time the list is exhausted and was approved by the Additional Commissioner on 7th August, 2000. A copy of the list dated 21st December, 1998 and the alleged file notings dated 21st April, 2000 and 26th July, 2000 have been produced by the petitioner.

4. The learned counsel for the respondent who appears on advance notice has contended that no such list as has been alleged by the

petitioner dated 21st December, 1998 was prepared. He has also produced a copy of the dispatch register showing that no such list was dispatched. The alleged list filed with the writ petition has not been admitted by the respondents.

5. The respondents have refuted the alleged list dated 21st December, 1998. In case the list as produced by the petitioner is not the list prepared by the Municipal Corporation of Delhi but some other list was prepared which is not before this Court, no direction can be given to the respondents to appoint the substitute in future according to the said list.

6. The petitioners have prayed that since they have worked with Municipal Corporation of Delhi, therefore, they are entitled to be given a preferential treatment in appointment. The petitioners in the facts and circumstances contended that in Ward Nos.57 to 62 of South Zone, only they are to be appointed in preference to others pursuant to list dated 21st December, 1998 or any other list prepared by the respondents.

7. The learned counsel for the petitioner is unable to explain as to how the petitioners have got the photocopies of the Annexures P2 & P3,

the alleged minutes of the respondents. There is no affidavit filed about the correctness of these annexures. In any case the petitioner cannot claim a preferential right on the basis of any list allegedly prepared by the respondent in appointment in any of zones of the Municipal Corporation of Delhi. The case of the petitioner is not that since they have worked on daily wages, therefore, they are entitled for preferential appointment with the Municipal Corporation of Delhi rather they are claiming that they are entitled for preferential appointment in South Zone of the respondent.

8. On account of having worked in a particular zone on daily basis during the sanitation drive earlier, will not entitle the petitioners for their appointment in preference of others. In any case the petitioners are seeking appointment according to the alleged seniority list allegedly prepared by the Municipal Corporation of Delhi which has been denied by the respondents. The respondents are denying the seniority list which allegedly has the names of various other persons. The petitioners are claiming a preferential appointment in accordance with the said list. Whether the seniority of the petitioner is shown correctly in the alleged list or not cannot be decided without hearing all the persons who would be affected by the seniority list. In the circumstances the petitioners are not entitled for the direction to the respondents to

appoint persons in accordance with the alleged seniority list. The petitioners are not entitled for any relief as prayed by them. The writ petition is without any merit and it is, therefore, dismissed.

April 11th, 2008
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ANIL KUMAR, J.