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

+ LPA 760/2010

ASSISTANT PROFESSOR SALAHUDDIN Appellant
Through: Mr. Kirpal Singh, Advocate

versus

VICE CHANCELLOR OF
J.M.I. UNIVERSITY & ORS. Respondents
Through: None.

% Date of Decision: 26th October, 2010

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE MANMOHAN

1. Whether the Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not? No.
3. Whether the judgment should be reported in the Digest? No.

J U D G M E N T

MANMOHAN, J

CM No. 18977/2010 (for exemption)

Allowed, subject to all just exceptions.

Accordingly, the application stands disposed of.

LPA 760/2010

1. The present Letters Patent Appeal has been filed challenging the judgment and order dated 01st September, 2010 whereby the appellant's writ petition being W.P.(C) No.5552/2010 has been dismissed.

2. Briefly stated the relevant facts of the case are that the appellant had applied to the respondent-Jamia Milia Islamia University for admission to Ph.D. Programme in the year 2008. However, as the appellant was not admitted on account of his employment in a college outside Delhi, the appellant filed the aforesaid writ petition seeking the following reliefs:-

“(a) To issue a writ or order or orders or direction or directions in the nature of mandamus commanding the respondents to register the name of petitioner in Ph.D. Registration to submit thesis of Ph.D. in subject Mathematics, since 27.7.2008, 6.3.2009, pay Rs.30 lakhs as damages and mental torture by respondents to the petitioner from his pocket expenses and cost of litigation may be paid.

(b) To issue a writ or order or direction or directions in the nature of certiorari to direct respondent to pay Rs.30 lakhs as compensation of damages and mental agony due to doing work of admission of in Ph.D. by dictatorship mala fide intention, arbitrary and against principle of nature justice and pay cost of litigation and interest 10% by the respondents personally from their own pockets.

(c) Pass such other or further order or orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case in the interest of justice.”

3. The learned Single Judge by virtue of the impugned order refused to entertain the writ petition on the ground that the appellant had filed the same after a lapse of two years of rejection of the application for admission of the appellant during which period the system of admission to Ph.D. Programme had changed with effect from July, 2009. However, the learned Single Judge granted liberty to the appellant to file appropriate proceedings seeking damages in accordance with law.

4. Mr. Kirpal Singh, learned counsel for the appellant stated that the learned Single Judge had erroneously reached the conclusion that the system of admission to Ph.D. Programme had changed with effect from July, 2009. Mr. Singh drew our attention to page 102 of the paper book to contend that certain candidates had been enrolled in Ph.D. course in 2009 after being exempted from the entrance test.

5. Having heard Mr. Kirpal Singh, learned counsel for the appellant, we are of the opinion that the document at page 102 does not show that candidates were exempted from entrance test after the system of admission to Ph.D. Programme had changed, that means, with effect from July, 2009. In any event, even if the said submission is assumed to be correct, then also, the present petition involves a disputed question of fact which cannot be decided in a writ proceeding. Moreover, as the learned Single Judge has preserved the appellant's right to file appropriate proceedings seeking recovery of damages, we are of the view that impugned order calls for no interference.

6. We are further of the opinion that in view of the time lag of two years between the rejection of the appellant's application for admission to Ph.D. Programme and the filing of the aforesaid writ petition, the present petition suffers from laches.

7. In view of the aforesaid, the present appeal, being devoid of merit, is dismissed *in limine*.

MANMOHAN, J

CHIEF JUSTICE

OCTOBER 26, 2010

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