

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

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**Date of Decision: 04.09.2013**

+ W.P.(C) 4589/2013  
CHARUMATI S. KHANDARE

..... Petitioner

Through: Mr. Amit Kumar, Adv.

versus

UNION OF INDIA & OTHERS

..... Respondent

Through: Mr. Baldev Malik with Mr. Arjun Malik, Adv.

**CORAM:**  
**HON'BLE MR. JUSTICE V.K.JAIN**

**JUDGMENT**

**V.K.JAIN, J. (ORAL)**

**CM 12359/2013 (restoration)**

This is an application for restoration of the petition which was dismissed in default and for non-prosecution on 8.8.2013.

In view of the submissions made therein, the application is allowed and the writ petition is restored to its original number.

The application stands disposed of.

**W.P.(C) 4589/2013**

The petitioner before this Court was working as a casual artist with the respondent-National School of Drama and according to her counsel she continued to work in that capacity till 31.7.2012. National School of Drama invited applications for admission to the three-year diploma course for the term 2013-2016. The said course commenced from

mid-July, 2013. The following is the eligibility criteria prescribed in the notice inviting applications for the said position:

“Eligibility

Essential Qualifications:

1. Graduation in any subject from a recognized university in India & abroad.
2. Participation in at least 6 theatre productions.
3. Working knowledge of Hindi & English.”

2. Vide communication dated 28-29.5.2013, the petitioner was informed that she had cleared her first round of interview-cum-audition test held on the said date at Mumbai Centre. She was advised to appear for a five days final interview cum workshop scheduled from 15<sup>th</sup> to 19<sup>th</sup> June, 2013 daily. The petitioner appeared in the final interview-cum-workshop, but was not selected for admission to the aforesaid course. The allegation of the petitioner is that since the respondent no.3-Mr. Abdul Latif Khatana was inimically disposed towards her, she was deliberately not selected for the final interview-cum-workshop. The averments in this regard are contained in paragraph 12 of the writ petition which reads as under:

“12. That the respondent no.3, Mr. Abdul Latif Khatana, being a member of the selection committee and chief of TIE Co had been inimical with the petitioner, as mentioned in the foregoing paras of the writ petition, who is likely to be appointed as Director of the NSD happens to be an influential person having political influence, might have influenced to the other members of the selection committee for declaring the petitioner failed despite of her best performance. Mr. Khatana has acted in arbitrary manner and with mala fide intention to disqualify the petitioner out of anguish and malice.”

3. It is also alleged in the petition that the petitioner was given charge of co-ed senior secondary school, Khan Market as a Centre Head in the summer theatre workshop, 2012 conducted by Sanskaar Rang Toli (theatre in Education Company) of National School of Drama though she was working as a casual artist. According to her, three groups were constituted in Khan Market Centre, and one of them was headed by one Hafis Khan and an Assistant named Surbhi Rana. Second group, according to her was headed by Ms. Mohini Mathur and Mr. Sunil Sharma along with Mr. Gagan whereas Group C was headed by theatre expert Mr. Manish Saini. In the writ petition, the petitioner has made certain allegations against Mr. Hafis Khan. The following are the allegations made in the writ petition against Mr. Hafis Khan:

“Every group was consisting of 30 children each of different age groups. In Group B Mr. Hafis Khan was requested to get admit a particular child via his group assistant Miss Surbhi Rana but somehow Mr. Hafis Khan forgot it mistakenly. Now when Summer Workshop was about to start and result was already displayed Miss Rana reminded Hafis Khan that here ‘niece’ was not selected and her name was not there on result board which Mr Hafis Khan regretted very much and was very much desperate to admit that child (niece of Ms. Surbhi Rana) any how because he had given his word and couldn’t do it, it had become issue of status for Mr. Hafis Khan. But now nothing could have been done except if any child from group B gets debarred from workshop giving rise to vacant seat for waiting list children, coincidently this girl (niece of Ms. Surbhi Rana) was in waiting list. Now all Mr Hafis Khan had to do was to debar some child from his group B to vacate seat for this girl.

1. There is a rule in summer theatre workshop that if any child could not join on first day that seat considered as vacant and waiting children are upgraded. 2. If any child joins on 1<sup>st</sup> day but somehow

could not come for next 3 days continuously then that seat considered as vacant and can be kept vacant or with permission of T.I.E. Chief, can be allotted to waiting child, it is not mandatory but can be done.

On the 1<sup>st</sup> day all children in Group B joined but on the 2<sup>nd</sup> day, one child called Pankaj belonging to BPL class and student of same school in which workshop was being conducted couldn't come as he was having some domestic problem as his family was poor and were observed to vacate their residential place i.e., "JHUGI" by some kind or govt. order. Still there were 2 days more with Pankaj before getting him debarred from workshop but as Mr. Hafis Khan was desperate to keep his word and satisfy his ego, he didn't wait for balance two days and called that girl (niece of Ms. Surbhi Rana) in the next days without even informing me as "Centre Head" and to the Chief of TIE Co. Too. It is not at all allowed in summer workshop to make any child attend class without all formalities are done.

When it came to my knowledge I objected it but Mr. Khan told me that the seat in Group B was being vacated as a child named Pankaj was about to get debarred as he had not come on the 2<sup>nd</sup> day and in that case this girl would be getting upgraded. I asked him to wait for two days as Pankaj had 2 days in his account before getting debarred but Mr. Khan insisted that he wouldn't come.

To prove this aspect Mr. Khan sent our Assistant Mr. Akash to Pankaj's home i.e. "Jhugi", Akash brought Pankaj from his home. Mr. Khan made this child of aged 12 years to sit on chair and literally forced this child to vacate the seat saying that don't waste a seat which is very important and can be allotted to other candidate waiting. Mr. Khan's attitude towards this child was completely inhuman when in the TIE, we say that we should behave compassionately with a child. Mr. Khan's behaviour was totally against TIE Co's code of conduct, Rules and regulations. He was partial and biased. By this suppression child gave up and said yes he would surrender his seat, on his acceptance Mr. Khan immediately

sent Assistant Akash with Pankaj to his home and brought a written application from child's mother in this regard. Then Mr. Khan handed this application to me and told me to fulfil the formalities and get his candidate upgraded.

Horried by the aforesaid incident I was really hurt by such behaviour of National School of Drama and Tie Expert. I went to office to fulfil necessary formalities. Before getting the girl upgraded I had to go through record file of the child to mention her position in waiting list etc. When I opened the file I get shocked to see that some other child was at 1<sup>st</sup> position in waiting list and this girl was at 2<sup>nd</sup> waiting, in this situation waiting no.1 was to be given preference. However, he was ignored.

Finding the aforesaid act against the Rules and serious injustice to child in waiting no.1, I went to the Chief's Cabin to inform him about the situation and for his permission for the same. In reply, he told me go as per rules and call waiting child no.1 and if that child refuse to join then only go to waiting child no.2, that was this girl. I did the same, I called 1<sup>st</sup> waiting child and his father, who accepted that he would join from the next date.

When Mr. Khan came to know this and that his candidate had not been selected, this man get annoyed and threatened me to oust from TIE Co., I did not care, since I had acted according to the rules to save prestige of the company which I was working for.

But for Mr. Khan's topic was not closed yet. On the next day at the centre, he planned out for one more shot; he transferred one of his Group B child to Group C saying that this child would fit better in Group C as she is bit mature to be in Group B. This way one seat gets vacant in Group B but at the same time one seat extra was added to Group C.

4. She has further alleged that Mr. Khan called her boss respondent no.2 Mr. Khatana so as to force her to upgrade his candidate on a vacant seat. When she appraised respondent no.3 about the situation, he told Mr. Khan that it would not be possible to

upgrade the candidate of the choice of Mr. Khan and in fact he scolded Mr. Khan for his act. The averment of the petitioner is that though respondent no.3 was pretending to go by the rules, in fact, he wanted Mr. Khan's candidate to be accommodated and that precisely was the reason she was not selected in the final interview, Mr. Khatana being one of the members of the selection committee. Yet another incident, attributed by the petitioner to Mr. Khatana is contained in para 14 of the writ petition, which reads as under:

“On one fine day my boss Chief Abdul Latif Khatana called me in his cabin and informed me that complaints were coming against me, when I asked what is that? He told me that, “you had been saying that everyone and everything in National School of Drama is for a theatre artists including director, registrar, chief and all the staff of NSD.”

In answer to this statement I told him that I had no other option rather than choosing this harsh but true statement as the staff subordinate to us did not behave with us artists properly, whenever we ask for any official work to be done by them they did not respond positively and behaved with us like we are nothing, so, I had to remind them of the truth and had to tell them to follow the protocol and do your job as given to them by the office instead of bothering us like this.

On hearing this Mr. Khatana said but you told them director, registrar and even chief is for a theatre artist, what did that mean???

Here my chief had the expression that how can a worthless artist (it is his thinking for his subordinate artists as he belongs to those groups of monopoly and sophisticated hypocrites who see everybody below them by the power vested to them) can say anything like this, all that one artist should do to follow his orders without asking any question with head lowered below him being the **chief**?

All he wanted me to apologize for making such statement which had hurt his ego and but I took a firm step and tried to tell him how I was correct in the democratic republic state of India where

prime minister is supposed to be “the highest rank civil servant” and civilians are masters. But Mr. Khatana didn’t seem like appreciating my stand and desperately wanted me to apologize which I didn’t do even by the end of our hot discussion of an hour. Rather he said he would take written action against me and told me to give your same explanation in that too.

I agreed to his offer and humbly asserted to do so, but no written action was taken against me during my tenure, and Mr. Khatana took revenge in the interview by not selecting me despite of being the most deserving candidate as he thought myself as some kind of challenge to him and his position, no artist in “Theatre In Education Company” or “Reperiotory Company” of National School of Drama, is allowed to raise any kind of questions which can prove against the authority there.

Nowadays it is happening frequently in National School of Drama and every other Government/Semi Government/Private Sector of India. This contract basis employment facility is allowing superiors to exploit their subordinates in every aspect including professionally and personally making helpless employees victims.

“Charumati S. Khandare”

5. During the course of hearing, I asked the learned counsel for the petitioner as to how many were the members in the selection committee. According to the learned counsel for the petitioner there were eight members in the selection committee and Mr. Khatana was one of them. Admittedly, no request was made by the petitioner for excluding Mr. Khatana from the selection committee on the ground that he was biased or inimically disposed towards her. Admittedly, there was no complaint made by the petitioner against Mr. Khatana or in fact even against Mr. Khan whom she alleges to be a friend of Mr. Khatana. If the allegations made in the writ petition against Mr. Khatana are true, there was no reason for the petitioner not to make a request for excluding him from

the selection committee before which she was to appear for the final interview. In these circumstances, when there was no written complaint made by the petitioner against Mr. Khatana at any point of time nor any attempt was made by her to exclude him from the selection committee which interviewed her, the allegations made in the writ petition cannot be accepted at this belated stage, after she has failed in the selection. The learned counsel for the petitioner states that the petitioner was not aware that Mr. Khatana would be a member of the selection committee. Even if it is true, nothing prevented the petitioner from making a representation immediately after the final interview alleging bias against Mr. Khatana and seeking interview by a panel which did not include Mr. Khatana.

6. In any case, since Mr. Khatana was only one of the members of the selection committee there being as many as seven other members, it cannot be accepted that he was able to prevail upon the remaining members of the selection committee to reject the petitioner in the final interview.

7. It appears to me that the present writ petition is nothing but an attempt by an unsuccessful candidate to tarnish the image of the institution which did not select her.

The writ petition is devoid of any merit and is hereby dismissed. There shall be no orders as to costs.

**V.K. JAIN, J**

**SEPTEMBER 04, 2013/rd**