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

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Judgment delivered on: 10.01.2014

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W.P.(C) 190/2014

YOGESHWAR SHARMA & ANR

..... Petitioners

Through:

versus

VICE CHANCELLOR UNIVERSITY OF
DELHI NORTH CAMPUS, DELHI & ORS

..... Respondents

Through:

Advocated who appeared in this case

For the petitioners: Mr. P.C. Sharma, Advocate

For the respondents: Mr. Mohinder J.S. Rupal, Advocate for respondent no.1/
University of Delhi

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

RAJIV SHAKDHER, J

1. The petitioners herein claim to be appointed as Associate Professors in the Department of Chemistry in Moti Lal Nehru College, University of Delhi. They aver that they have been teaching their respective subjects of specialization since their appointment in the aforementioned college.
2. It is the case of the petitioners that respondent no.4 had applied in 2006 for appointment to the post of Lecturer in the reserved category. The said respondent had apparently given his preference as inorganic chemistry. It is the case of the petitioner that at that stage, respondent no.4 had declared his caste as 'Meena'.

3. To be noted, the application for appointment was made against reserved category i.e., Scheduled Tribe category. It appears that respondent no.4 was appointed by the aforementioned college after following the due process on 31.03.2008. Apparently, respondent no.4 has continued in the aforementioned post.

4. Respondent no.4 apparently applied for the post of Assistant Professor in the Department of Environmental Studies showing his specialization as organic chemistry in the University of Delhi. This application was made on 11.01.2012. It is the case of the petitioners that in the said application, respondent no.4 has shown his caste as 'Mina'. Apparently, the acting Principal of Moti Lal Nehru College gave his no objection based on the representation made by respondent no.4 that he belongs to the caste 'Mina'.

5. The petitioners have also relied upon a caste certificate, which is appended as Annexure P-4 at page 95 of the paper book to show that respondent no.4 apparently belongs to the caste 'Meena'.

6. It is also contended that respondent no.4 also claims to belong to another castes which is 'Pachwarya'.

7. It is the case of the petitioners that respondent no.4 had at different stages of his career claimed to belong to different castes which is a matter which requires enquiry by the respondents herein, in particular, the concerned college i.e., Moti Lal Nehru College.

8. It is in this context that one of the prayers made in the writ petition is that the appointment letter issued to respondent no.4 be declared as non-est in the eyes of law. The reason supplied by the petitioner is that respondent no.4 does not belong to the reserved category i.e., Scheduled Tribe 'Meena'.

9. What propelled the petitioner to move this court against the

appointment of respondent no.4 is the disputes and differences which have arisen between the petitioner and respondent no.4. It appears that respondent no.4 had filed a complaint with the concerned college, in which, inter alia, the allegation made was that he was humiliated and harassed by the petitioner, in as much, as he was asked to undertake subjects in which he had no specialization.

9.1 It appears that the Governing Body of respondent no.4, as then constituted, went into the allegation at its meeting held on 10.04.2013. The Governing Body, appears to have resolved the issue and inter alia observed as follows with regard to the complaint instituted by respondent no.4 :

“..H. Dr. Ram Babu Pachwarya’s communications to the various authorities such as the Vice Chancellor, shall be deemed to have been resolved by this action of the Governing Body, and no cause of action with regard to his alleged discrimination on the basis of his Scheduled Tribe status would remain.

I. The Governing Body wishes to encourage the Principal, the Chemistry, and Dr. Ram Babu Pachwarya to maintain cordial relations within the Department and the College to nurture a spirit of academic excellence.

The final decision of the Governing Body in this regard is that, effective immediately, for all purposes relating to the allocation of teaching assignments and appointment of new teachers and all matters relating to Chemistry Department of the College, the Sub-specialization of Dr. Ram Babu Pachwarya shall be Organic Chemistry...”

10. It is averred by the petitioners that as a matter of fact, the decision taken at the meeting of the Governing Body on 10.04.2013 was confirmed at its subsequent meeting held on 02.11.2013. For this purpose, reliance is

placed on page 156 of the paper book.

10.1 The petitioners aver that while the matter was pending before the Governing Body, respondent no.4 instituted a complaint with the Chairman of the Governing Body; which is dated 12.09.2013. A perusal of the complaint would show that respondent no.4 claims that despite the decision of the Governing Body dated 10.04.2013, his alleged humiliation continues and that he is being asked to teach subjects which are beyond his stated specialization.

10.2 The grievance of the petitioners appear to be that the Chairman of the Governing Body has forwarded the said complaint to the National Commission for Scheduled Tribes without the say so of the Governing Body. It is the contention of the petitioners that as on date, the Governing Body is not in place, as its tenure has expired.

10.3 It is in this context that the second prayer is incorporated in the writ petition, which, broadly, seeks a declaration in sum and substance to the extent that, the complaint dated 12.09.2013, and the letter dated 17.09.2013 forwarding the said complaint to the National Commission for Scheduled Tribes, does not survive, in view of the decision taken by the Governing Body, on 02.11.2013.

11. In my view, no interference is called for at this stage. The material that the petitioner has filed with the present writ petition, which, as indicated hereinabove, is suggestive of the fact that respondent no.4 has shown himself to be belonging to different castes at different points in time can also be forwarded to the National Commission for Scheduled Tribes as they are already seized of the complaint forwarded by the Chairman of the Governing Body vide his communication dated 17.09.2013. The Chairman

of the Governing Body / Principal / truncated Body of Moti Lal Nehru College (which I am told is the nomenclature given to the Governing Body after its tenure has expired), will do the needful within the next two weeks.

12. Needless to say, the National Commission for Scheduled Tribes, which I am informed is still seized with the matter forwarded to it by the Chairman of the Governing Body of Moti Lal Nehru College, will take into account the material which is required to be forwarded to them pursuant to the order passed today.

13. With the aforesaid observations in place, the writ petition is disposed of. The registry will dispatch copies of the order passed today, to the respondents herein, as well, the National Commission for Schedule Tribes.

RAJIV SHAKDHER, J

JANUARY 10, 2014

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