

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) No. 2123/2012
% **12th January , 2015**

SUSHILA DEVIPetitioner
Through: Mr. O.S.Soran, Adv.
VERSUS

DIRECTORATE OF EDUCATION & ORS. Respondents
Through: Mr. Yogesh Saini, Adv. for R-1.
Mr. Sanjay Kumar Pathak and Mr. Sunil
Kumar Jha, Adv. for R-2.
Ms. Priyabrat Sahu, proxy counsel for R-
3.

CORAM:
HON'BLE MR. JUSTICE VALMIKI J.MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. This writ petition under Article 226 of the Constitution of India is filed by the petitioner for quashing of the appointment of respondent no.3 as the Physical Education Teacher in the respondent no.2-school in terms of the Selection Committee Meeting dated 17.3.2012. The case of the petitioner is that she was a better candidate for being appointed as a Physical Education Teacher and not the respondent no.3. In the writ petition it is also alleged that the selection of the respondent no.3 is vitiated because the father

of the respondent no.3 was working as an English teacher in the respondent no.2-school.

2. The facts of the case are that the respondent no.2-school invited applications vide advertisement dated 21.10.2011 for recruitment of a Physical Education Teacher. Various persons including the petitioner applied for the post. Petitioner was also called for the interview. Ultimately as a result of the selection done by the Selection Committee, the respondent no.3 was appointed, and whose appointment is challenged by the writ petition. The petitioner besides claiming that she is better than the respondent no.3 also alleges that respondent no.2 committed theft of her original documents and with respect to which a complaint has been made by her to the SHO, Police Station Sarai Rohilla.

3. Respondent no.2-school has filed a counter-affidavit and stated that the Staff Selection Committee (SSC) had been duly constituted in terms of the requisite Rule 96 of the Delhi School Education Rules, 1973 and this SSC considered the candidates who appeared in the interview for the selection as Physical Education Teacher. Total number of candidates who applied were 53 including the petitioner. 42 candidates were found to meet the eligibility criteria. 20 candidates including the petitioner were short listed for the interview and called for the interview which was held on

17.3.2012. Out of the 20 candidates called for the interview, 11 candidates appeared in the interview. SSC on the basis of academic index prepared and as per the devised marking scheme based on educational qualifications and professional experience and performance in the interview, unanimously recommended the name of respondent no.3 to be appointed as the Physical Education Teacher of the respondent no.2. Respondent no.2 has stated in the counter-affidavit that merely because the father of respondent no.3 was an English teacher in the school, cannot mean that the selection process can be questioned, inasmuch as, the father of the respondent no.3 had nothing to do with the selection process undertaken and the selection made, which was done by the SSC duly constituted in terms of Rule 96 of the Delhi School Education Rules. The SSC contained not only an Education Officer who was the representative of the Director of Education, and in the SSC there was a subject expert nominated by the Director of Education in terms of the relevant sub-rule of Rule 96.

4. Some of the relevant averments which have been made by respondent no.2 with respect to the selection of the Physical Education Teacher are contained in paras 10,15 and 18(iii) of the counter-affidavit and which read as under:-

“10. That in compliance of the aforesaid Rule 96(3)(b), the

Staff Selection Committee (for short “SCC”) was constituted as under:

- (i) Shri Gordhan Das Sharma, Chairman, Managing Committee [Rule 96 3(b) (i)]
- (ii) Shri N.P. Singh, Principal/Head of the School [Rule 96 3(b) (ii)]
- (iii) Dr. O.P. Singh, Director’s Nominee [Rule 96 3(b) (iv)]
- (iv) Smt. Kamlesh Bains, Education Officer/Director’s Representative [Rule 96 3(b) (iv)]
- (v) Shri K.M. Jairath, Subject Expert, nominated by the Director [Rule 96 3(b) (v)]

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15. That on the basis of academic index prepared and as per the devised marking scheme based on educational qualification and professional experience and performance in the interview, members of SSC unanimously recommended the respondent No. 3- Shri Praveen Kumar on the select list for appointment to the post of PET (OBC). The selection was held strictly on Merit basis in a fair and transparent manner. Respondent No.3 outclassed all the candidates who were called for interview as he had requisite qualifications, experience and produced originals of his certificates, marks-sheets and testimonials and performed well in the interview. The petitioner was in fact at 9th place. The petitioner failed to produce original experience certificates copies whereof were submitted by her along with her application and thus, she did not qualify for any marks towards experience. None of the certificates submitted by any of the candidates were retained by the SSC either for verification purposes or otherwise. The result of the selection was declared on the same day i.e. on 17.03.2012 which was duly communicated to the Directorate of Education, Govt. of NCT of Delhi.

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18. (iii) that the respondent No. 3 is son of Shri Dharamvir Singh who is English Teacher in the same School and influence/illegal approach was the criteria for less competent person (i.e. Respondent No.3).

At the outset, it is submitted that no such allegation was made by the petitioner either in her complaint dated 19.03.2012 or in her complaint dated 21.03.2012. Name of Shri Dharamvir Singh or of the respondent No.3 nowhere finds mentioned in her two complaints made above. Even otherwise, it is humbly submitted that being son of an existing employee of the Respondent No.2- School per se was not and could not have been considered as a disqualification for the respondent No.3 and that could not be a ground to deprive him from being considered for the post of PET in the absence of any allegations of mala fide or bias. In any case, the father of the respondent No.3 was in no manner associated with the selection process. The Selection in question was conducted by the Staff Selection Committee duly constituted as per Rule 96 of the Delhi School Education Rule consisting of five persons out of which three were either nominee or representatives of the Director of Education, Govt. of NCT of Delhi and the remaining two persons were the Chairman and the Head of the School. Thus, there was no chance of any unfairness with any of the candidates. The allegations of any influence/illegal approach or that of the appointment of the respondent No.3 being illegal, are ill founded, misconceived and are just an afterthought and has no factual or legal basis. It is incorrect to suggest or allege that the respondent No.3 is less competent than the petitioner.

It is not out of place to mention here that it is the petitioner who had sought to influence the selection process by bringing external/political pressure on 17th January, 2012 (i.e. just before the date of interview fixed initially for 19.01.2012) for her appointment to the said post.”

5. In my opinion, the writ petition has no merit because it is the Staff Selection Committee (SSC) which is fully entitled to decide who is a better candidate to be appointed. In this case in terms of a proper selection criteria selection was done and in fact petitioner has been placed considerably below

at serial no.9 in the select list. Petitioner therefore nowhere is/was near the entitlement for being appointed as the Physical Education Teacher of the respondent no.2-school. Though, petitioner has claimed that she received more marks, no details of any marks are filed by the petitioner and obviously therefore a self serving statement that the petitioner had more marks cannot be believed. Courts do not interfere in the selection made, unless there is arbitrariness or perversity or illegality in the actions of the SSC, and which is not so in the present case.

6. I also do not agree that since the father of the respondent no.3 was an English teacher in the school, it can in any manner affect the selection process inasmuch as selection process was conducted by the SSC constituted in terms of Rule 96 of the Delhi School Education Rules which contained as many as 2 nominees/representatives of the Director of Education and in which selection process the father of the respondent no.3 was in no way concerned.

7. Counsel for the petitioner has argued in fact that the original certificates of the petitioner were stolen by the respondent no.2, and which I very much doubt inasmuch as there were as many as five members of the SSC including two nominees of the Director of Education, but in any case, this is a disputed question of fact which cannot be decided in this writ

petition, besides the fact that this aspect is immaterial because experience is only one of the criteria for selection and after the experience criteria is considered, a selection list is prepared as per all/various eligibility criteria, and as per which list the petitioner is not placed in the selection list immediately after the respondent no.3 and in fact the petitioner has been placed at the 9th place in the selection list.

8. In view of the above, there is no merit in the writ petition and the same is therefore dismissed, leaving the parties to bear their own costs.

JANUARY 12, 2015
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VALMIKI J. MEHTA, J.