

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

+ W.P.(C) No. 2750/2014

% **21st January, 2015**

MRS. VINEETA TEJPALPetitioner
Through: Mr. A. Maitri, Adv. with Ms. Radhika
Chandrashekhar, Adv.
Mr. Ajay Tejpal, in person.

VERSUS

GOVT. OF NCT OF DELHI & ORS. Respondents
Through: Ms. Nikita Khetrapal, Adv. for Ms.
Nidhi Raman, Adv. for R-1 and 2.
Mr. Raj Kumar Sherawat, Adv. for R-4.
Mr. Vibhu Shankar, Adv. for R-3.

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

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

W.P.(C) No. 2750/2014 & CM No. 15447/2014 (for amendment of the writ petition) & CM No. 8543/14 (for vacation of stay) & CM No. 5711/2014 (stay)

1. This writ petition under Article 226 of the Constitution of India was filed by the petitioner originally impugning the recommendation of the

Departmental Promotion Committee (DPC) dated 7.4.2014 which recommended promotion of the respondent no.4/Ms. Poonam Kaushik to the post of Post Graduate Teacher-PGT (Maths) with the respondent no.3-school. In this writ petition, an interim order was passed by a learned Single Judge of this Court on 1.5.2014 noting the contention of the petitioner that the respondent no.4/Ms. Poonam Kaushik who has been recommended for being appointed by the DPC on 7.4.2014 is a wrong decision inasmuch as Ms. Poonam Kaushik was junior to the petitioner.

2. After pleadings were completed in this writ petition, petitioner has filed an amendment application being CM No. 15447/2014 for amending the writ petition to contend that in fact respondent no.4 was not eligible to be appointed as PGT (Maths) in the respondent no.3-school, inasmuch as, the Masters Degree obtained by the respondent no.4 from the Annamalai University would be an invalid degree and which as per the petitioner is so said to have been held by the Supreme Court in the judgment in the case of *Annamalai University rep. by Registrar Vs. Secy. to Govt. Inf. and Tourism Dept. & Ors. (2009) 4 SCC 590* and which judgment has been relied upon by a Division Bench of Karnataka High Court vide its judgment dated 31.10.2013 in W.P.(C) No. 31653/2010.

3. I must state that originally three arguments, and which were
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subsequently not pressed, were urged on behalf of the petitioner before this Court to deny the appointment to the respondent no.4 to the post of PGT (Maths) and which were:-

(i) There was no sanctioned post of PGT (Maths) in the year 2012 when both the petitioner as well as respondent no.4 became eligible and this sanctioned post came into existence in view of the approval letter of the Director of Education dated 28.9.2013.

(ii) The second diametrically opposite argument which was raised was that it is not as if that there was no sanctioned post of PGT (Maths) in the respondent no.3-school, but as the respondent no.3-school is an aided school, appointment could not have been made to the post of PGT (Maths) till 28.9.2013 and only when the Director of Education gave its approval.

(iii) After the first two arguments were given up, and the second argument having been given up inasmuch as DPC was actually held on 7.4.2014 ie after the approval of the Director of Education on 28.9.2013, the issue which remained was whether it was the petitioner who was senior for being appointed to the post of PGT (Maths) as she had the requisite eligibility qualifications of five years' experience in the post and a Masters Degree from a recognized University prior to respondent no.4 or that the respondent no.4 had this qualification prior to the petitioner. With regard to this third

argument it transpired that respondent no.4 already had a Masters Degree from Annamalai University obtained in the year 2002, and she completed five years of qualifying service on 1.1.2012 whereas the petitioner completed the requisite qualifications after she obtained the Masters Degree in October 2012 ie after January 2012 when the respondent no.4 duly complied with the eligibility criteria. This third argument was hence also given up.

4. The fourth argument and the final argument which is raised, after three arguments were given up, is that the Masters Degree obtained by the respondent no.4 from the Annamalai University stands invalidated as per the Supreme Court judgment in the case of *Annamalai University (supra)* and therefore the respondent no.4 became ineligible for being appointed to the post of PGT (Maths). It is this fourth argument only which now has to be considered by the Court to decide the entitlement of the petitioner with respect to the reliefs claimed in the writ petition.

At this stage, I may state that there is no opposition to the application for amendment of the writ petition being CM No. 15447/2014 to add the aspects of the fourth argument, and which is thus allowed, and therefore, the fourth argument as stated above which is raised in the amended writ petition is accordingly being considered by this Court.

5(i) Let us now examine the fourth argument and whether the petitioner is correct in contending that all Masters Degrees obtained from Annamalai University from the years 1995 to 2007 stand invalidated by the Supreme Court in the judgment in the case of *Annamalai University (supra)* and hence the Masters Degree of respondent no.4 obtained is invalid.

(ii) This argument of the petitioner is to be rejected because the respondent no.4 obtained the Masters Degree in the year 2002 i.e between 1995 to 2007 is not invalid inasmuch as all the Masters Degrees were not invalidated by the Supreme Court as is sought to be urged on behalf of the petitioner. This is discussed hereinafter.

6. The argument urged on behalf of the petitioner by placing reliance upon the judgment in the case of *Annamalai University (supra)* is clearly fallacious because in the facts of *Annamalai University (supra)*'s **case** the Masters Degrees which were obtained from the years 1995 to 2007 from Annamalai University were invalidated because such Masters Degrees were obtained without first completing the three years bachelor course inasmuch as the bachelor degree course which was being conducted by this University and which had to be of three years, however the same was converted by the University into a single year course. In view of this factual position, which showed that Masters Degrees were obtained without

obtaining the bachelor degree having a three years course, hence the Masters Degrees obtained from the Annamalai University from the year 1995 to 2007 were quashed inasmuch as it was a *sine qua non* that the qualification of the bachelor degree had to be obtained before obtaining a Masters Degree.

7. However, in the present case, it not the case of the petitioner, and which could not be otherwise, that the Masters Degree obtained by the respondent no.4 from Annamalai University was without completing a three years bachelor degree course since the respondent no.4 has in fact completed the three years bachelor degree course during 1993 to 1996 from Maharishi Dayanand University, Rohtak. Accordingly, I reject the argument urged on behalf of the petitioner allegedly that the respondent no.4 is not eligible because the Masters Degree of respondent no.4 obtained from the Annamalai University is illegal and allegedly quashed by the Supreme Court in the case of *Annamalai University (supra)*.

8. In view of the above, I do not find any merit in the petition and therefore the same is dismissed. Interim orders dated 1.5.2014 are vacated. No costs.

JANUARY 21, 2015
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VALMIKI J. MEHTA, J.