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

+ LPA 793/2013 & C.M.No.16750/2013 (*stay*)

SUMEET KAUR

.... Appellant

Through: Ms.Jyoti Singh, Sr.Adv. with Ms.Tinu Bajwa, Mr.Aman Nandrajog, Mr.Arjun Nanda, Adv.

Versus

DIRECTOR OF EDUCATION & ORS.

..... Respondents

Through: Mr.Gautam Narayan, Adv. for R-1.

Mr.Akshay Kashyap, Adv. for R-2.

Mrs.Avnish Ahlawat, Adv. with Ms.Latika Chaudhary, Adv. for R-3.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

07.07.2015

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1. The unsuccessful petitioner in W.P.(C) No.3343/2012 is the appellant before us. The appellant/writ petitioner who was appointed as TGT (Science) in the second respondent School and claims to be eligible for promotion to the post of PGT (English), filed the said writ petition seeking a declaration that the consideration of the respondent No.3, who is working as TGT (English), for the post of PGT (English) is in violation of the provisions of the Delhi School Education Act and Rules 96 and 100 of the Rules made thereunder.

2. It may be noted that the appellant/writ petitioner had earlier filed W.P.(C) No.585/2008 to quash the recommendations of the DPC in the meeting held on 31.12.2007 whereby the DPC had recommended the

promotion of the respondent No.3 to the post of PGT (English). The said writ petition was dismissed as withdrawn by order dated 09.03.2010. The said order came to be passed by this court in view of the decision taken by the Directorate of Education dated 25.02.2010 directing the management of the second respondent School to conduct review DPC as per the approval dated 15.02.2010 taking into consideration the seniority, eligibility, qualification and service conditions as existing on cut-off date as per Rules for all the members of the zone of consideration. It was also mentioned that the said decision was taken by the Directorate of Education as certain procedural lapses were committed by the DPC earlier. While placing on record the said order dated 25.02.2010, this Court directed the second respondent School to conduct review DPC within a period of 2 months. The petitioner was also granted liberty to approach this court if the petitioner feels aggrieved by the decision of the review DPC.

3. Since the review DPC in terms of the order dated 09.03.2010 in W.P.(C) No.585/2008 was yet to be conducted, the learned Single Judge declined to interfere and accordingly by the order under appeal dismissed W.P.(C) No.3343/2012 as premature.

4. The said order has been assailed before us by the appellant/writ petitioner on various grounds.

5. We have heard the learned counsel for both the parties and perused the material available on record.

6. The learned counsel appearing for the first respondent Directorate of Education at the outset submitted that the review DPC is still pending and has not been concluded. It is also submitted by the learned counsel that the

DPC is unable to proceed further since both appellant and respondent No.3 are not co-operating. In this context, the learned counsel has drawn the attention of this court to the specific pleading in the counter affidavit filed by the respondent No.2 dated 19.06.2013 in W.P.(C) No.3343/2012 which reads:-

“C.Thereafter several DPCs were constituted but no positive decision could be taken due to certain reasons which are explained in the writ petition..... In the DPC held on 28/7/2010 has itself ***“observed that the atmosphere of school is not healthy and the management is not stable. Every time, candidates under consideration remain present just outside the meeting room and creating pressure in every meeting even in writing, as a numbers of letters have been given by school management before and after meeting. Under these circumstances the Govt. officials of DPC are not in a position to conduct DPC. Hence, we may inform the court accordingly through competent authority.”***

7. Be that as it may, having regard to the admitted fact that the review DPC as decided by the Directorate of Education itself on 25.02.2010 and was recorded by this court while disposing of W.P.(C) No.585/2008 has not yet been completed, we are of the view that the learned Single Judge was justified in declining to interfere and dismissing the writ petition as premature. However, in view of the specific direction by this court in W.P.(C) No.585/2008 by order dated 09.03.2010 to conduct review DPC within a period of 2 months, we deem it appropriate to direct the review DPC to be completed within a timeframe without fail.

8. Accordingly, without expressing any opinion with regard to the rival claims made by the appellant and the respondent No.3, we direct the

respondent Nos.1 and 2 to complete the review DPC in terms of the decision of the Directorate of Education dated 25.02.2010 within a period of 2 months from today without fail. We make it clear that the appellant and the respondent No.3 as well as the second respondent School shall extend the fullest co-operation to enable the review DPC to be completed within the time fixed above.

9. We also make it clear that it is open to the aggrieved party to challenge the decision that may be taken by the review DPC by working out the appropriate remedy available under law.

10. The appeal is accordingly disposed of. No order as to costs.

CHIEF JUSTICE

JAYANT NATH, J

JULY 07, 2015/‘anb’