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

+ **W.P.(C) 8874/2015**

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Date of Judgment : 21.09.2015

NISHA

..... Petitioner

Through : Mr. Anuj Aggarwal and Ms. Aarushi
Agarwal, Advocates.

versus

GOVERNMENT OF NCT OF DELHI & ORS Respondent

Through : Mr. Sanjoy Ghosh, ASC, GNCTD
with Ms. Pratishtha Vij, Advocate for
R-1.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J. (ORAL)

CM APPL. 19877/2015 (Exemption)

1. Exemption allowed subject to just exceptions.
2. Applications stand disposed of.

W.P.(C) 8874/2015 & CM APPL. 19878/2015 (Directions)

3. Challenge in this writ petition is to the order passed by the Central Administrative Tribunal dated 19.08.2015 by which the Tribunal has directed the respondent to decide the representation of the petitioner within four weeks.
4. Counsel for the petitioner submits that the petitioner was engaged as a Guest Teacher for the term 2014-15 but when she applied for the next term, her application was rejected based on a circular dated 09.07.2015. Counsel submits that since the petitioner had challenged the aforesaid circular, no purpose would be achieved by directing the

respondent to consider the representation of the petitioner and the matter would require hearing on merits. Counsel further submits that in cases where the facts are not in dispute, the practice of remanding the matter to the Executive for deciding a representation has not been approved in a decision rendered by a Division Bench of this Court in the case of ***Rahul Vs. Govt. of NCT of Delhi & Ors., reported in 2014 (2) SCT 824 Delhi.*** Para 12 of the judgment reads as under :

“Before proceeding further ahead we would failing noting that large number of writ petitions filed before us are evidencing that before remanding the matter, on questions of fact and law, determinative findings are being recorded by the Tribunal and thereafter the matter is remanded to the Executive for decision afresh. This may be permissible if the Executive has wrongly interpreted the law requiring the Executive to re-apply the facts to the correct law as expounded by the Tribunal. Likewise, a fact or a circumstance may be opined to be relevant by the Executive and said fact or circumstance has influenced the decision. Upon the fact or the circumstance found to be irrelevant the matter may be remanded to the Executive to decide afresh after excluding the said fact or the circumstance. But where the facts are not in dispute and only a legal issue arises, the Tribunal ought not to remand the matter for the reason no useful purpose would be served to remand the matter. In any case, whenever a matter is remanded, the reason for the remand must be clearly brought out and if a legal point is debated, the conclusion has to be clearly stated. What we are finding is stray observations here and there with a remand. The Executive is left guessing what to do.”

5. Notice. Mr. Ghosh accepts notice.
 6. With the consent of the parties, we dispose of this writ petition.
- Having regard to the fact that the petitioner has challenged the

circular dated 09.07.2015 which would disentitle the petitioner for the post of a Guest Teacher, we deem it appropriate to remand the matter back to the Tribunal to enable the Tribunal to hear the matter on merits. Since the term of a Guest Teacher is 9 months, we request the Tribunal to decide the matter as expeditiously as possible. Parties to appear before the Tribunal on 6th October, 2015.

7. The writ petition and pending application are disposed of. We make it clear that we have not expressed any opinion on the merits of the matter and the Tribunal would decide the O.A. unaffected by any observation made in this order.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

SEPTEMBER 21, 2015

SC