

I-16

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

Date of Decision: October 28, 2015

+ W.P.(C) 10105/2015 & C.Ms. 24800/2015 & 24801/2015

DR. SATISH CHANDRA PANDEY Petitioner

Through: Ms. Swati Kumar, Ms. Tarha A.
Rahman & Ms. Anu Parcha,
Advocate

versus

NATIONAL MUSEUM INSTITUTE OF HISTORY OF ART,
CONSERVATION AND MUSEOLOGY & ANR. ... Respondents

Through: Mr. Sanjay Jain, ASG, with
Ms. Aastha Jain, Ms. Bani Dixit &
Ms. Pallavi Shali, Advocates
Mr. R. Mishra, Mr. Sanjeiv Kumar
Saxena & Mr. Mukesh Kumar
Tiwari, Advocates for respondent
No.2

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
(ORAL)

%

Quashing of selection process to the post of Professor (Conservation) in National Museum Institute is sought in this petition.

In pursuance to Advertisement of 13th June, 2015 (*Annexure P-17*) respondent No.1- *National Museum Institution of History of Art, Conservation & Museology*, had proceeded to initiate the selection process to the post of Professor (Conservation) and petitioner (*who has*

been working as Assistant Professor) has been left out by the Screening Committee. In this regard, petitioner had made a Representation of 14th October, 2015 (*Annexure P-21*) claiming that he deserves to be selected under Criteria- B, as stipulated in the Advertisement (*Annexure P-17*).

At the hearing, learned counsel for petitioner had vehemently submitted that petitioner has an extraordinary and outstanding record and has three outstanding publications to his credit, which qualify him for considering in Category-B of the Advertisement (*Annexure P-17*). During the course of hearing, it was submitted by learned counsel for petitioner that petitioner is due to become Associate Professor and has infact five outstanding publications to his credit and in view of academic record of petitioner, he deserves to be selected to the post of Professor (Conservation), as he has expertise in this field.

The composition of the Screening Committee was assailed by learned counsel for petitioner by pointing out that it comprises of Assistant Professor (Department of History of Art) and HOD (Department of History of Arts)/ Dean (Academics), Finance Officer and Assistant Registrar (Academics), who are not eligible to judge the academic competence of petitioner. Reliance was placed upon Apex Court's decision in *Dr. Triloki Nath Singh Vs. Dr. Bhagwan Din Misra & ors.* (1990) 4 SCC 510 to submit that in the absence of legally constituted panel of experts, the selection process ought not to continue. Reliance was placed upon Single Bench decision of High Court of Patna in *Kalpna Sinha Vs. Union of India* 2015 LawSuit (Pat) 667 to assert that Selection Committee ought to have experts in the relevant field i.e. Conservation. Reliance was also placed upon Apex Court's decision in

Kalyani Mathvanan Vs. K.V. Jeyaraj and ors AIR 2015 SC 1875 to submit that the UGC regulations ought to be strictly adhered to, as it has a binding effect. Lastly, it was submitted that as per petitioner's Representation (*Annexure P-21*), he is qualified under Category-B as per Advertisement (*Annexure P-17*) and so, direction be issued to respondent-Institute to call petitioner for the said interview, which is slated for 31st October, 2015.

This petition is staunchly opposed by learned Additional Solicitor General, who appears for respondent-Institute by submitting that petitioner had applied under Category-A of Advertisement (*Annexure P-17*) and he does not fulfill the selection criteria, as he does not have ten research publications to his credit. It is undertaken on behalf of first respondent that the interview to the post of Professor (Conservation) would be carried out strictly as per UGC guidelines and in any case, on this count the selection process cannot be halted, as the scrutiny of candidates for the post of Professor (Conservation) has already taken place. Lastly, it was submitted that petitioner had applied in Category-A of Advertisement (*Annexure P-17*) and now petitioner cannot claim to be considered in Category-B of the Advertisement (*Annexure P-17*) and so, this petition deserves dismissal, as relied upon decisions are of no avail to the case of petitioner.

Upon hearing and on perusal of the Advertisement (*Annexure P-17*), UGC guidelines (*Annexure P-19*), petitioner's Representation (*Annexure P-21*), material on record and the decisions cited, I find that petitioner had applied for the post of Professor (Conservation) in Category-A of Advertisement (*Annexure P-17*) which requires minimum

of ten research publications. Petitioner is an internal candidate and as of today, he is yet to be considered for the post of Assistant Professor. Category-B of Advertisement (*Annexure P-17*) is required to be adverted to. It reads as under:-

“2. Eligibility

A. XXXXXXXX

B. An outstanding professional, with established reputation in the relevant field, who has made significant contributions to the knowledge in the Conservation/ allied/ relevant discipline, to be substantiated by credentials.”

This Court is conscious of the legal position that in matters of selection in academic field, the interference by the Courts is minimal and unless there is any material violation, the Courts are reluctant to interfere and do not indulge in comparison of academic merits of the candidates. In this regard, pertinent observations of the Apex Court in *Basavaiah (Dr.) v. Dr. H.L. Ramesh*, (2010) 8 SCC 372 are as under:-

“12. ... It is needless to emphasise that it is not the function of the court to hear appeals over the decisions of the Selection Committees and to scrutinise the relative merits of the candidates. Whether a candidate is fit for a particular post or not has to be decided by the duly constituted Selection Committee which has the expertise on the subject. The court has no such expertise. The decision of the Selection Committee

can be interfered with only on limited grounds, such as illegality or patent material irregularity in the constitution of the Committee or its procedure vitiating the selection, or proved mala fides affecting the selection, etc.”

In the facts and circumstances of this case, this Court finds that petitioner had not applied in Category-B of Advertisement (*Annexure P-17*) and so, petitioner cannot be now considered in Category-B for the post of Professor (Conservation). Petitioner has infact no locus to challenge the constitution of Selection Committee because petitioner is not eligible in Category he had applied for and it is not deemed feasible to permit petitioner to change the Category at this belated stage. Evidently, petitioner is not eligible for being considered in Category-A of Advertisement (*Annexure P-17*) and so, there is scope for any interference in the selection process. Needless to say that the selection process shall be strictly in terms of the applicable rules and regulations and undertaking in this regard furnished by learned Additional Solicitor General is taken on record.

Consequently, finding no apparent material irregularity in the Selection process, this writ petition is dismissed while leaving the parties to bear their own costs. Pending applications are dismissed as infructuous.

(SUNIL GAUR)
JUDGE

OCTOBER 28, 2015

r