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

+ W.P.(C) 4925/2016 and CM APPL. 20493-20494/2016

RANJANA

..... Petitioner

Through: Mr. Mukesh Gupta, Advocate with
Mr. Ankur Chhibber, Advocate

versus

IGNOU THR. ITS VICE CHANCELLOR & ORS Respondents

Through: Mr. Aly Mirza, Advocate for R-1 & 2.

Mr. D. Rajeshwar Rao, Advocate with

Mr. Charanjeet Singh, Advocate for R-3/GNCTD.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

ORDER

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26.05.2016

1. The petitioner, who is working on the post of a Junior Assistant-cum-Typist with the respondent No.1/IGNOU, seeks quashing of the Memorandum of Charge dated 30.09.2013 and directions to the respondents to keep the inquiry proceedings initiated vide order dated 12.04.2016, in abeyance.

2. Mr. Gupta, learned counsel for the petitioner submits that earlier hereto, in the year 2004, departmental inquiry proceedings were initiated against the petitioner on two charges, namely, that she had produced a false caste certificate at the time of selection and secondly, that she had got married to one Mr. Tejbir Singh while her divorce petition with her husband Mr. Trilok Raj was still pending adjudication in the Court. During the pendency of the enquiry proceedings, clarifications were sought from the

SDM, Hauz Khas, who vide letters dated 09.09.2005 and 23.01.2006, had conveyed that after conducting an enquiry, the certificate dated 14.03.1988 submitted by the petitioner was found to be genuine. As a result, vide order dated 16.05.2006, the respondents had decided to withdraw Article I of the Chargesheet. As for the Article II, disciplinary proceedings were concluded on 02.08.2007 and the Inquiry Officer held that the charge levelled against the petitioner in respect of Article II, was proved.

3. Thereafter, the petitioner was reinstated into the service vide order dated 19.12.2006. In the meantime, the petitioner has approached the High Court by filing a petition for quashing of FIR No.323/2005, registered against her on the complaint of Mr. Tejbir Singh, the person who she had married during the subsistence of her first marriage with Mr. Trilok Raj. The High Court had however declined to entertain the said petition and had directed the petitioner to appear before the Trial Court.

4. Subsequently, the learned MM had passed an order dated 29.09.2012, directing the ADM (South) to conduct an enquiry into the matter. In his report dated 05.07.2013, the ADM(South) had stated that it could not be conclusively proved as to whether the petitioner belongs to the "Jatav" community in respect of which, she had submitted a caste certificate to the respondent No.1 at the time of her appointment. Considering the report of the ADM (South), the learned MM had tentatively held that the petitioner had obtained employment with the respondent No.1 by misrepresenting that she belonged to the SC category and an action taken report was called for from the respondent No.1.

5. Aggrieved by the aforesaid order, the petitioner had filed two Revision petitions before the Sessions Court that were disposed of by a

common order dated 12.11.2013, wherein the direction issued by the learned MM for calling upon an action taken report from the respondent No.1, was set aside. However, it was observed that since the records indicated that information passed on by the Magistrate had been taken note of by the Disciplinary Authority, it was left to the latter to take the matter further to its logical conclusion.

6. Counsel for the petitioner submits that the trial arising out of FIR No.323/2005 is at an advance stage and out of ten witnesses cited by the prosecution, four have already been examined and two witnesses have been summoned on 03.06.2016 and the disciplinary proceedings initiated by the respondents are also continuing simultaneously, with the next date fixed as 31.05.2016.

7. Counsel for the petitioner pleads that the respondents be directed to stay their hands in respect of the disciplinary proceedings atleast for a couple of months as the trial arising out of FIR No.323/2005 is virtually at the fag end and it is very likely that the same shall be concluded in this duration. He further states that even after the order dated 12.11.2013 was passed by the Sessions Court, the respondents are continuing with the domestic enquiry though they should have reconsidered the entire issue after the order of the learned MM, calling for an action taken report from the respondents, was set aside.

8. In response, Mr.Mirza, counsel for the respondents No.1 and 2 states that the respondent No.1 had reconsidered the entire issue after receiving the order passed by the Sessions Court and had decided to proceed against the petitioner by continuing with the disciplinary proceedings, which is well within the right of the Management. He states that enquiry proceedings are

at the stage of inspection of documents by the petitioner on 31.5.2016 and thereafter, evidence shall commence.

9. Having regard to the fact that the proceedings in the criminal case are at an advance stage and likely to conclude in a couple of months, with the consent of the parties, the present petition is disposed of with directions issued to the respondents to stay its hands in respect of the disciplinary proceedings for a period of two months. However, it is made clear that if the criminal proceedings pending before the learned MM are not concluded within this duration, then the disciplinary proceedings in respect of the petitioner shall re-commence w.e.f. 01.08.2016. A next date of hearing shall be fixed by the Inquiry officer on 31.05.2016, which shall be after 31.07.2016.

10. The petition is disposed of alongwith the pending applications.

MAY 26, 2016
rkb/mk/ap

HIMA KOHLI, J