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

+ **WP(C) 8560/2016**

DELHI METRO RAIL CORPORATION EMPLOYEES UNION

..... Petitioner

Through : Mr. Rakesh Singh, Advocate

versus

DELHI METRO RAIL CORPORATION LTD. & ANR.

..... Respondents

Through : None.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

ORDER

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23.09.2016

CM APPL. 35259/2016 (exemption)

Subject to the appellant filing the certified/typed/legible copies of the documents annexed with the appeal within four weeks, the application is allowed and disposed of.

CM No.35258/2016 (u/Sec.151 CPC for stay of the DMRC Staff Council election scheduled to be held on 24.9.2016)

1. The writ petition has been placed before the Court on urgent mentioning being allowed.
2. The accompanying petition has been filed by the petitioner/Union praying *inter alia* for issuance of a writ of mandamus to the respondents calling for conducting a free and fair election of the respondent No.2/DMRC Staff Council.

3. It is the contention of the counsel for the petitioner/Union that though the petitioner/Union is a registered Body, it has not been granted recognition by the respondent No.1 and repeated communications addressed by the petitioner/Union to the respondent No.1 demanding recognition, have not borne any result. Instead, the respondent No.1 has proceeded to issue a schedule for conducting the election of the respondent No.2/Council. He therefore submits that the respondents be restrained from conducting the elections for reconstituting the respondent No.2/DMRC Staff Council.

4. Records reveal that a Notice was issued by the Management of the respondent No.1 as long back as on 18.8.2016, proposing to reconstitute the respondent No.2/DMRC Staff Council (Annexure-P-10). Subsequently, a Notice dated 7.9.2016, was issued by the respondent No.1 enlisting the names of such of the employees whose nominations were found valid to contest the election of the Staff Council representatives (Annexure P-11). The said Notice had clarified that a candidate may withdraw his nomination by giving a notice in writing to the Electoral Officer by 9.9.2016. This was followed by issuance of a Circular dated 9.9.2016 (Annexure-P-12), whereunder the Electoral Officer had informed all the employees of respondent No.1 that the voting for the Staff Council elections will be held on 24.9.2016 from 9.00 AM to 5.30 PM and counting of the votes will take place on 26.9.2016 (Monday).

5. The petitioner/Union has elected to approach the Court at the eleventh hour, as the present petition was initially filed on 20.9.2016 and was returned by the Registry under objections that were removed and it was re-filed on 22.9.2016. It is not as if the petitioner/Union was unaware of the Notice dated 18.8.2016 issued by the respondents for reconstitution of the

respondent No.2/Council or the Notice dated 7.9.2016, identifying the employees whose nomination was found to be valid to contest in the election for Staff Council representatives or for that matter, the Circular dated 9.9.2016, issued by the Electoral Officer intimating all the concerned employees that the Staff Council election shall be held on 24.9.2016. All the said Notices/Circulars are a part of the paper book. However, the petitioner/Union has waited till the very last minute to approach the court, knowing very well that the voting shall take place tomorrow.

6. There is no justification for the petitioner to have approached the Court so belatedly and that too for seeking a stay of the elections. Once the election process has commenced, it ought to be taken to its logical conclusion. Accordingly, the prayer made in the present application is declined.

7. The application is dismissed.

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1. Counsel for the petitioner states that in view of the fact that no interim order has been granted in favour of the petitioner on the interim application for stay of the DMRC Staff Council election, nothing further would survive for adjudication in the writ petition.

2. In view the aforesaid submission, the writ petition is disposed of.

HIMA KOHLI, J

SEPTEMBER 23, 2016

sk/mk/ap