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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ LPA 503/2015 and CM Nos. 13645/2015, 13659/2015 and 21365/2015
PROF A K MITTAL Appellant

Through: Mr Chandra Shekhar, Mr R.N. Yadav and
Mr Manoj Aggarwal and Mr Prashant, Advs.

versus

REGISTRAR INDIAN INSTITUTE OF TECHNOLOGY & ANR
..... Respondents

Through: Mr Arujun Mitra, Adv. for Respondents 1
and 2

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER
% **19.01.2016**

The appellant is aggrieved by the order of the learned Single Judge dated 30.04.2015. The order was made on an application for recall of the previous order dated 15.09.2014 which disposed of writ petition No.6059/2014 at the first hearing. The appellant at that stage was aggrieved by the enquiry instituted against him upon allegations of sexual harassment levelled by some research scholars of Indian Institute of Technology. The essence of the appellant's grievance was that the procedure prescribed by law, i.e., the one indicated in *Vishaka & Ors. vs. State of Rajasthan AIR 1997 SC 3011* and *Medha Kotwal Lele vs. UOI 2013 (1) SC 311* was not followed. It was also contended

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that the appellant had not been afforded proper opportunity of defending himself in the course of enquiry which was ultimately conducted by a retired Judge of this Court.

The learned Single Judge, after having noticed the essential facts and contentions, also took note of the show-cause notice which had been issued to him in the meanwhile. The learned Single Judge was apprised of the document, i.e., the Minutes of Meeting dated 06.09.2014 which indicated that the Board of Governors authorized the Chairman to approve the draft of his speaking order. The learned Single Judge, therefore, directed as follows:-

“8. Having regard to the above, the captioned application is disposed of with the following directions, in line, with the instructions received by Mr. Banerjee :-

(i). The minutes of the meeting dated 06.09.2014 shall stand effaced from the record.

(ii). The Board will give, at least, ten (10) days prior written notice to the petitioner fixing the date and venue of the hearing.

(iii). On the given date, as agreed by Mr. Banerjee, the hearing will take place from 10.30 a.m. to 1.30 p.m.

(iv). The petitioner will be at liberty to place before the B.O.G., his written submissions as also any other material, he wishes to place reliance on.

(v). The petitioner will hand over his written submissions, at least, three days prior to the date of hearing fixed by the B.O.G.

(vi). The B.O.G. will not consider any input, by way of report or otherwise submitted by the three member committee,

which was, earlier scrutinizing the submissions filed by the petitioner before the B.O.G.

(vii). The B.O.G. will not take into account the minutes of the meeting dated 31.10.2014 and 15.01.2015 to the extent they relate to the petitioner.

(viii). Lastly, the B.O.G. after giving opportunity to the petitioner, will pass a speaking order.”

It is urged on behalf of the appellant that the impugned order—as also the previous order disposing of the writ petition—was in error inasmuch as questions as to the pre-decisional hearing and the efficacy of the procedure adopted was not gone into. It was also submitted that the show-cause notice was indicative of a predisposed mind, i.e., with the propensity to somehow indict the appellant. In these circumstances, learned senior counsel contends that it can be hardly expected that the Board of Governors would take an objective view and make an impartial order having regard to all the contentions advanced.

This Court notices that in the first order disposing of the writ petition or in the course of the application (made later by way of recall), the learned Single Judge consciously did not return any finding as to the legality of the procedure adopted. In the course of the submissions made on behalf of the parties, the respondent had urged that the appellant had resorted to delaying tactics and should not intervene in this matter. In any event, as noticed earlier, the learned Single Judge has not recorded any findings as to the correctness or the legality of the procedure adopted nor does the operative portion direct the Board of

Governors to act in a particular manner. The Court was informed during the pendency of the appeal that the Board of Governors had, in fact, by its Minutes of Meeting dated 22.07.2015 finally decided to accept the Enquiry Report and issued a show-cause notice to the appellant requiring him to show-cause why he ought not to be dismissed and thereafter, imposed penalty of compulsory retirement after which no final order has been made.

For the foregoing reasons, the Court is of the opinion that appeal does not merit acceptance. It is accordingly dismissed.

Pending applications also stand dismissed.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

JANUARY 19, 2016

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