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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 1/2016 and C.M. Appl. Nos. 19/2016 (for stay), 1084/2016 (for directions), 2516/2016 (for directions), 2517/2016 (for vacation of stay)

VIVEK

..... Petitioner

Through: Mr. Avadh Kaushik, Advocate.

versus

INDIRA GANDHI NATIONAL OPEN UNIVERSITY & ORS

..... Respondent

Through: Mr. Aly Mirza, Advocate.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

% **13.01.2017**

1. In this case, the following orders were passed on 9.12.2016 and 21.12.2016.

Order dated 9.12.2016.

“1. Counsel for the respondents states that he will bring to the notice of the respondent no.1 the judgment of the Supreme Court in the case of ***Avtar Singh Vs. Union of India (UOI) and Ors. (2016) 8 SCC 471*** wherein the Supreme Court with respect to grant/cancellation of appointments of persons has made various observations. Counsel for the respondents also states that he will take appropriate instructions in view of the ratio of this judgment of the Supreme Court.

2. List on 21st December, 2016.”

Order dated 21.12.2016.

“1. Counsel for the respondents states that without prejudice to the respective rights of the respondents, the respondents are looking at the issue in question favourably as recorded in the order dated 9.12.2016. Adjournment is prayed of about two weeks so as to resolve the issue.

2. List on 13th January, 2017.”

2. I am happy to note that respondent no. 1 has taken a proactive and a positive view of the matter and has passed its decision on 12.1.2017 accepting the proposal dated 4.1.2017 and which reads as under:-

“In view of the analysis of the above said order and the order dated 09.12.2016 of the Hon’ble Justice Mr. Valmiki J. Mehta, Delhi High Court, the following option seems to be available to the University to take recourse in the present matter.

1. The Hon’ble Delhi High Court in its order dated 09.12.2016 has referred to the judgment of the Supreme Court in the Avtar Singh Vs. Union of India. Hence, it is open to the University to contest the matter on merits which is likely to resolve in orders/directions from the Hon’ble Court against the stand of the University.

2. The second option available to the University is that of adhering to the spirit in the judgment of the Supreme Court in the case of Avtar Singh Vs. Union of India and Ors. and to recall the orders dated 30.12.2015 on the following conditions :

a. The offer of appointment shall be effective from a prospective date i.e. date on which he joins IGNOU after due verification of documents and another formalities etc. The Petitioner shall not be liable to claim any consequential benefits/any other benefits prior to the date of joining.

b. The Petitioner shall be on a probation period as per the IGNOU rules wherein his conduct would be observed by the University and found unsuitable his service would be forthwith terminated during the period of probation.

c. The Petitioner would have to execute an undertaking before the Hon'ble Court to this effect (Pont No. A & b above).

Submitted for approval please.

(Vibhash Tripathi)
Asstt. Registrar (Legal)
04.01.2017”

3. Counsel for the petitioner, as also the petitioner who is present in person, have been shown paragraph '2' with its sub-paragraphs 'a.' to 'c.' of the proposal dated 4.1.2017 and the same are acceptable to the petitioner.

4. Accordingly, this writ petition is disposed of in terms of paragraph 2 of the proposal dated 4.1.2017 which has been accepted on 12.1.2017 and the petitioner will be allowed to join his duties with the respondent no. 1 with effect from 1.2.2017 and before that date the petitioner will appear before the competent authority of the respondent no. 1 for the purpose of verification of documents and completion of other formalities. The date in this regard for appearance of the petitioner will be communicated by respondent no. 1 through its counsel to the counsel for the petitioner in this case.

5. The writ petition is accordingly disposed of in terms of the aforesaid observations.

VALMIKI J. MEHTA, J

JANUARY 13, 2017/JK
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