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

+ W.P.(C) 605/2017

DR. TEJINDER KAUR

..... Petitioner

Through In person.

versus

UNION OF INDIA & ANR

..... Respondent

Through Mr. Abhay Prakash Sahay, CGSC
with Mr. Arun Kumar Mishra, Advocate for R-1.
Mr. H.D. Sharma, Advocate for R-2.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

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23.01.2017

Having heard the petitioner in person and the counsel for National Institute of Public Cooperation & Child Development (NIPCCD), the second respondent before us, we are not inclined to interfere with the interim order as we perceive and believe, the order is predicated and justified on balance of convenience, when it directs that appointment to the post of Director would be subject to outcome of the Original Application filed by the petitioner. It is also observed that the Tribunal has not expressed any opinion on merits.

2. The aforesaid order records that the petitioner is presently working as a Joint Director and is not working as an Additional Director, the post immediately below the post of Director.

3. The petitioner in person, however, submits that direct recruitment procedure should have been preferred and is the mandatory method for selection to the post of Director, in the absence of eligible promotional candidate.

4. The second respondent before us has stated that the authorities have deliberately not gone for direct recruitment as it could have adversely affected those working in the immediately junior post of Additional Director.

5. We clarify that we have only noted the contention raised by the petitioner and the counsel for the second respondent and have not made any observation or comment on the same. The contentions raised are a matter of debate in view of the language of the Recruitment Rule and the decision of this Court in Civil Writ Petition No.5413/2003, ***Adarsh Sharma Vs. Union of India and Anr.***, decided on 24th March, 2004. We perceive and believe that the impugned order takes into account balance of convenience and, therefore, specifically records that appointment so made would be subject to outcome of the Original Application. It would not be appropriate and proper to interject and stall the entire recruitment process for appointment to the post of Director through transfer on deputation including short-terms

contract pursuant to vacancy circular dated 28th September, 2016. This would cause and create administrative difficulties and problems.

6. We clarify that in case any appointment to the post of Director is made, the appointment letter will specifically indicate that the appointment would be subject to outcome of the Original Application.

7. The petitioner, who appears in person, submits that the second respondent was granted two weeks' time to file reply vide order dated 6th January, 2017, which period has already lapsed. Keeping in view the urgency, counsel for the second respondent has assured that their reply would be filed on or before 13th February, 2017, the next date of hearing.

8. We hope and trust that the Tribunal keeping in view the urgency, would hear the matter expeditiously and dispose of the OA filed by the petitioner as early and possible.

The writ petition is disposed of.

Dasti.

SANJIV KHANNA, J.

CHANDER SHEKHAR, J.

JANUARY 23, 2017
NA/VKR