

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

+ **W.P.(C) No.5852/2008**

% **31st January, 2017**

SMT. SHOBHA & ORS. Petitioners

Through: Mr. Ashok Aggarwal, Advocate.

versus

GEETA SENIOR SECONDARY SCHOOL NO.II AND ORS.

..... Respondents

Through: Mr. Santosh Kumar Tripathy,
Advocate with Mr. Rizwan,
Advocate for respondent No.3.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J.MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. Three petitioners have filed this writ petition impugning the actions of the respondent no.1/school and the respondent no.3/Director of Education in not appointing the petitioners as Assistant Primary Teachers pursuant to the advertisement issued on 18.12.2007.

2. So far as the petitioner no.1 is concerned, the Director of Education has filed the counter affidavit stating that petitioner no.1 never applied for the post in question. I have put it to the counsel for

the petitioners that what is the proof filed that petitioner no.1 had applied for being selected under the recruitment process commencing through the advertisement dated 18.12.2007, and the counsel for petitioner no.1 in response could not point out any document to this Court showing that petitioner no.1 had applied for the post in question. Once that is so that petitioner no.1 did not even apply for being selected, petitioner no.1 therefore cannot claim that she should have been appointed to the post of Assistant Primary Teacher.

3. So far as petitioner no.3 is concerned, the Director of Education in its counter affidavit has stated that petitioner no.3 received only 34 marks and hence was not in the merit list for being called. Petitioner no.3 has not filed any rejoinder affidavit to the counter affidavit of the Director of Education, and therefore, the stand of the Director of Education has necessarily to be accepted that petitioner no.3 only secured 34 marks, and hence was not in the merit list. Once the petitioner no.3 was not entitled to be called for the interview for the post of Assistant Primary Teacher, hence the petitioner no.3 cannot claim for being appointed as an Assistant Primary Teacher of the respondent no.1/school.

4(i) So far as petitioner no.2 is concerned, the case of petitioner no.2 is that the selection process was not transparent, no

marks were allotted under different heads in the interviews, and that petitioner no.2 was always assured by the management that since she had worked earlier in the school for a long time, hence, petitioner no.2 would be appointed.

(ii) The arguments urged on behalf of petitioner no.2 are misconceived because there is no requirement as per the recruitment rules that the marks which are given in the interview should be under specific heads. It is also seen that petitioner no.2 has not made any allegations against any specific member of the Selection Committee. Once the Selection Committee has met, Selection Committee has selected candidates as per their understanding of merits of a candidate, there is no violation of law in not communicating the marks of the petitioner no.2 to the petitioner no.2 or no specific marks were required to be given under different heads in the interview, it cannot be argued by the petitioner no.2 that selection process was illegal. The issue of transparency urged on behalf of the petitioner no.2 can only be looked at if there is any illegality in the selection process, and illegality in the selection process can only take place if there is violation of recruitment rules or any circular or guideline issued by the Director of Education, and to this effect no cause of action is laid out in the writ petition on behalf of petitioner no.2. Hence petitioner no.2 who was considered

but was not selected in the interview process, but other private respondent were selected, and thus consequently, the petitioner no.2 cannot raise any legal grievance against her non selection to the post of Assistant Primary Teacher with the respondent no.1/school.

5. In view of the above, there is no merit in the writ petition, and the same is therefore dismissed, leaving the parties to bear their own costs.

JANUARY 31, 2017
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VALMIKI J. MEHTA, J

