

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

Date of Order: December 19, 2017

+ **W.P.(C) 2986/2017 & C.Ms. 12989/2017 & 27136/2017 & 27137/2017**

MINAKSHI SINGH Petitioner
Through: Mr. Deepak Goel, Advocate

Versus

GOVT OF NCT OF DELHI AND ORS. Respondents
Through: Mr. Abhimanyu Singh &
Mr. Vinod Kumar Goyal, Advocates for
respondents No.1 to 3

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
ORAL

1. Petitioner, who is Trained Graduate Teacher (TGT) in English, seeks a mandamus to the first three respondents to hold Departmental Promotion Committee (DPC) for promoting her to the post of Post Graduate Teacher (PGT) – English, against a vacant post. Quashing of absorption order of fourth respondent and compliance of letter of 22nd March, 2017 (*Annexure P-20*) is sought in this petition while drawing attention of this Court to information dated 25th April, 2017 (*Annexure P-2 colly to C.M.27137/2017*) sought under Right to Information Act, 2005 to show that petitioner's qualification of M.A. (English) was added in her

service record on 16th January, 2016 on the basis of marks sheet of M.A. (English) submitted by her and the first respondent was called upon to constitute the DPC on 15th December, 2016 and 6th March, 2017.

2. Respondent-school vide its Communication of 4th December, 2016 (*Annexure P-10*) called upon the petitioner to submit her M.A.(English) degree for facilitating the holding of DPC. Petitioner claims to have informed the respondent-School vide Communication of 6th December, 2016 (*Annexure P-11*) that she had applied for M.A. (English) degree from Mahatma Gandhi University, Meghalaya but she has not received it and she would submit it as soon as she receives it. Attention of this Court is drawn by petitioner's counsel to Communication of 27th December, 2016 (*Annexure P-12*) from Mahatma Gandhi University, Meghalaya, vide which respondent-School was informed that the details of petitioner's marks sheet of M.A. (English) degree sought by respondent-School is correct and genuine.

3. Learned counsel for fourth respondent submits that the order absorbing the fourth respondent in the respondent-School was passed in February, 2017 and she was actually absorbed in the academic session commencing in April, 2017. But in this regard, there is no communication on record.

4. Be that as it may. It is evident from respondent-School's Communication of 14th March, 2017 (*Annexure P-16*) to respondent-*Directorate of Education* that the post of PGT (English) is a promotional post and is under process and therefore a request was made to constitute the DPC at the earliest. Learned counsel for first respondent submits that

the Directorate of Education had repeatedly informed the respondent-School to convene the DPC or else the school would be responsible for the lapse.

5. During the course of hearing, learned counsel for petitioner submits that although the provisional degree (*Annexure P-15*) has been submitted in March, 2017 and application for providing proper M.A. (English) degree was made to Mahatma Gandhi University, Meghalaya way back in December, 2016 but there is no record to show that the petitioner had done so. In any case, petitioner's case for promotion is required to be considered by respondents, as it is the stand of respondent-School that the post in question is a Feeder Post. Absorption of fourth respondent against this post cannot be the basis to deny conditional/provisional promotion to petitioner. It is for respondent-*Directorate of Education* to consider and find out as to where else fourth respondent can be absorbed. It is also required to be seen by respondent-*Directorate of Education* as to why the marks sheet for M.A. (English) is not to be considered as valid qualification, particularly when respondent-School has already received a communication from Mahatma Gandhi University, Meghalaya that petitioner's marks sheet of M.A. (English) is genuine and correct.

6. No doubt as per Communication of 30th January, 2017 (*Annexure P-13*), filling up of promotional post was to be complied with by 20th December, 2016 and thereafter, surplus employees were to be adjusted against the vacant posts, but since respondent-School has already been taken over by respondent- *Directorate of Education*, therefore, it is for

the respondent- *Directorate of Education* to explain as to why petitioner's marks sheet for M.A. (English) was not considered as a valid qualification for holding DPC prior to 20th December, 2016 and if no valid reason is forthcoming, why should petitioner suffer? These are the factual aspects which are not required to be gone into while exercising writ jurisdiction and are required to be considered by the first respondent. To keep the facts straight, let petitioner make a concise Representation to first respondent within two weeks and upon receiving of such Representation, respondent- *Directorate of Education* will address above referred aspects and would pass a speaking order to ensure that the Feeder Post is duly filled up by promotion and if it cannot be done, then specific reasons for not doing so, be provided to petitioner within a period of twelve weeks. It is made clear that petitioner will submit M.A. (English) degree to the first respondent as soon as she gets it. The fate of the Representation be made known to petitioner within a week thereafter, so that petitioner may avail of the remedies, as available in law, if need be.

7. With aforesaid directions and without commenting on the merits of the case, this petition and applications are disposed of.

Dasti.

**SUNIL GAUR
(JUDGE)**

DECEMBER 19, 2017

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