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

+ W.P.(C) 4421/2017, CM Nos. 19330/2017, 19331/2017

BINOD KUMAR SINGH Petitioner
Through: Petitioner in person

versus

BOARD OF MANAGEMENT RASHTRIYA SANSKRITI
SANSTHAN AND ORS Respondents
Through: Mr.Gyanprakash, Adv. with Ms.
Neeraj, Adv. for R1 and R3
Mr.Ravinder Agarwal, Adv. for R8
(CVC)
Mr.Anurag Ahluwalia, CGSC for
R2(UOI)

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

% **23.05.2017**

1. The present petition has been filed by the petitioner with the following prayers:

(i) *Direct the issuance of a Writ in the nature of Certiorari or any other appropriate Writ / Order / Direction calling up and quashing / setting aside the malafide order bearing Reference No.1 No.F.5-1/2014-Skt.1 passed by Joint Secretary, (CU &L) of the MHRD dated May 2015 (XXIII of Annexure P-2)(Colly) directing the initiation of a*

disciplinary inquiry against the petitioner and constituting a two member Fact Finding Committee on May 2015;

- (ii) Direct the issuance of a Writ in the nature of Certiorari or any other appropriate Writ / Order / Direction revoking and setting aside the Order of Suspension dated 14.12.2015 issued by the BOM of Respondent NO. , and to reinstate the petitioner with continuity of service and full back wages at the Respondent No.1 Sansthan at New Delhi to perform the duties prescribed in the Rules of the Respondent No.1 Sansthan, with all the attendant pecuniary and other benefits of which he has been deprived of, by virtue of the illegal Order of Suspension;*
- (iii) Direct the issuance of a Writ in the nature of Certiorari or any other appropriate Writ / Order Direction quashing and setting aside the orders for Extension of Suspension of the petitioner dated 11.3.2016, 09.09.2016, and 08.12.2016 and 6.03.2017 issued by the BOM (Respondent No.1)*
- (iv) Direct the issuance of a Writ in the nature of Mandamus or any other appropriate Writ / Order / Direction directing the Respondent No.1 to furnish copies of Agenda and minutes of meeting of the BOM held on 14.12.2015 onward along with certified copies of the Report / Supplementary / Fresh Report of the Fact Finding Committee constituted by the MHRD under Rule 19 of the MoA along with copies of documents in support of identity of complaints verified by FFC as per CVC orders as also copies of complaints*

received and investigated by FFC with copies of all communications / documents exchanged between the Fact Finding Committee and the past employers / Educational Institutions attended by the Petitioner.

(v) *Direct the issuance of a Writ in the nature of Mandamus directing the Respondents to fix pay of the Petitioner with five additional increment over his last pay drawn with his previous employer from the date of his joining i.e. 5.07.2013 onward as decided by BOM at its meeting held on 28.11.2013 and disburse the arrears.*

(vi) *Direct the issuance of a Writ in the nature of Mandamus to the Respondents to get the allegations about violations of norms of recruitment and selection by Respondent No.3 and allegations about the offering of inducements to Shri R. Sitarama Murthy (Respondent no.5) by him investigated by CVC;*

And to pass such other orders / directions as this Hon'ble Court deems fit and proper in the facts and circumstances of the case.

2. Learned counsel for the respondents have pointed out that the petitioner had earlier filed a writ petition being W.P.(C) 2513/2017, in which the petitioner sought identical reliefs.

3. When the matter was listed yesterday i.e. May 22, 2017, this Court

had directed the petitioner to produce the copy of the writ petition being 2513/2017, filed by the petitioner before this Court. The petitioner has handed over to me the copy of the writ petition i.e. W.P.(C) 2513/2017. I note, the prayers made in that writ petition are as under:

- (i) *Direct the issuance of a Writ in the nature of Certiorari or any other appropriate Writ / Order / Direction calling up and quashing / setting aside the mala fide Order bearing Reference No.1.No.F.5-1/2014-Skt.1 passed by Joint Secretary, (CU & L) of the MHRD dated May 2015 (Annexure P-21 herein) directing the initiation of a disciplinary inquiry against the petitioner and constituting a two member Fact Finding Committee on May, 2015;*
- (ii) *Direct the issuance of a Writ in the nature of Certiorari or any other appropriate Writ / Order / Direction revoking and setting aside the Order of Suspension dated 14.12.2015 issued by the BOM of Respondent No. (Annexure P-4 herein), and to reinstate the petitioner with continuity of service and full back wages at the Respondent no.1 Sansthan at New Delhi to perform the duties prescribed in the Rules of the Respondent No.1 Sansthan, with all the attendant pecuniary and other benefits of which he has been deprived of, by virtue of the illegal Order of Suspension;*
- (iii) *Direct the issuance of a Writ in the nature of Certiorari or any other appropriate Writ / Order / Direction quashing and*

setting aside the Orders of Suspension of the petitioner and extension thereof dated 14.12.2015, 11.3.2016, 09.09.2016, 6.12.2016 and 06.3.2017 (Annexure P-1, 2, 3, 4 and 38 herein) issued by the BOM of the Respondent no.1 Rashtriya Sanskrit Sansthan;

- (iv) Direct the issuance of a Writ in the nature of Mandamus or any other appropriate Writ / Order / Direction directing the Respondents to furnish certified copies of the Report / Supplementary Report of the Fact Finding Committee constituted by the MHRD under Rule 19 of the MOA along with the copies of the complaints received and investigated by the Fact Finding Committee, as also copies of all communications / documents exchanged between the Fact Finding Committee and the past employers of the petitioner;*
- (v) Direct the issuance of a Writ in the nature of Mandamus or any other appropriate Writ / Order / Direction to the Respondents for the production of all records and files and proceedings of Meetings of BOM and other Committees held between 24.12.2105 to date, pertaining to petitioner's suspension, extensions and personal hearing on 20th May, 2016.*
- (v) Direct the issuance of a Writ in the nature of Mandamus or any other appropriate Writ / Order / Direction to Respondent No. 1 to restrain Respondents 3 – 7 from attending or participating in any manner in the meetings of BOM or any other committees and from getting associated in manner in*

any action or enquiry against the petitioner.

- (vi) Direct the issuance of a Writ in the nature of Mandamus directing the Respondents to fix pay of the petitioner with five additional increment over his last pay drawn with his previous employer from date of his joining, i.e., 5.7.2013 onward as decided by BOM at its meeting held on 28.11.2013 and disburse the arrears of his pay without any further delay.*
- (vii) Direct the issuance of a Declaration that the appointment of Respondent No.3 Shri P.N. Shastry as the Vice Chancellor of the Respondent No.1 Sansthan was illegal non-est and void as Shri V. Kutumb Shastry had illegally been appointed as a Member of the Selection Committee as he had held the post of Vice Chancellor and Principal of the Respondent No.1 Sansthan;*
- (viii) Direct the issuance of a Writ in the nature of Certiorari quashing the appointment of Shri P.N. Shastry dated 15th May, 2015 as the Vice-Chancellor of the Respondent No.1 Sansthan forthwith;*
- (ix) Direct the issuance of a Writ in the nature of Mandamus to the Respondents to get the allegations qua the illegal appointment of Prof. P.N.Shastry as the Vice-Chancellor of the Respondent No.1 Sansthan, with the active connivance of Shri Chamu K. Shastri and Shri V. Kutumb Shastry investigated by the Central Vigilance Commission on the basis of facts as disclosed in the present petition;*
- (x) Direct the issuance of a Writ in the nature of Mandamus to*

the Respondents to get the allegations about the offering of inducements to Shri P. Sitarama Murthy investigated by CVC;

And to pass such other orders / directions as this Hon'ble Court deems fit and proper in the facts and circumstances of the case.

4. On a comparison of the reliefs prayed for in W.P.(C) 2513/2017 and this writ petition, I note, the prayers as made in this petition are identical. The W.P.(C) 2513/2017 was withdrawn by the petitioner on March 20, 2017, when this court has passed the following order:

"1. Counsel for the petitioner has been heard at length. Various arguments were urged on behalf of the petitioner.

2. After arguments and at the stage of dictation of the judgment for dismissing of the petition, counsel for the petitioner has taken instructions from the petitioner, who is present in person, that this writ petition be disposed of as not pressed with liberty to the petitioner to urge all grounds as raised in this writ petition so far as disciplinary proceedings are concerned either before the disciplinary authority or if necessary before the appellate authority in case the disciplinary authority passes an order against the petitioner.

3. So far as the challenge of the petitioner to the appointment of Mr. P.N. Shashtry as Vice Chancellor of

respondent no. 1/employer is concerned, counsel for the petitioner states that cause of action urged in this writ petition as regards this relief will be urged by the petitioner or by petitioner through other persons who have filed certain judicial proceedings in the nature of PIL, and where this issue is pending.

4. The writ petition is accordingly disposed of as not pressed with the aforesaid liberty”.

5. It is noted from the order, this Court granted liberty to the petitioner to urge all grounds raised in that writ petition so far as the disciplinary proceedings are concerned, either before the disciplinary authority or if necessary, before the Appellate Authority in case disciplinary authority passes an order against the petitioner. I have been informed that the proceedings against the petitioner have been concluded and the matter has been referred to the CVC for second stage advice. In other words, the disciplinary proceedings are still pending. There is no final order passed in the same by the disciplinary authority. So there is no question of any appeal having been filed against the order of disciplinary authority.

6. The plea of the petitioner that he has filed an appeal dated April 18, 2017 and supplementary appeal dated May 1, 2017 to the appellate authority for revocation of his suspension dated December 14, 2015 and its

extension on four occasions in terms of the liberty granted and as the same have not been disposed of and he has accordingly filed this writ petition is concerned, the plea is unsustainable as I find this Court vide order dated March 20, 2017 gave the liberty to the petitioner to urge the grounds as raised in the writ petition in so far as the disciplinary proceedings are concerned, either before the disciplinary authority or if necessary, before the appellate authority, in the eventuality, disciplinary authority passes an order against the petitioner. The intent of the order is, in so far as the disciplinary proceedings initiated pursuant to the issuance of charge sheet, not on an issue related to suspension. That apart, in view of the petitioner incorporating identical prayers in the present petition as were the prayers in the writ petition being W.P.(C) No. 2513/2017, the present writ petition, is not maintainable on principles akin to principles of res judicata.

7. The petition being not maintainable, the same is dismissed.

CM Nos. 19330/2017 (for stay) & 19331/2017 (for direction)

In view of the order passed in the writ petition, these applications are dismissed as infructuous.

V. KAMESWAR RAO, J

MAY 23, 2017/akb