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

+ **W.P.(C) 5134/2017**

PREETI GROVER & ORS

..... Petitioner

Through: Ms. Neena Malhotra, Advocate

versus

NEW DELHI MUNICIPAL COUNCIL & ORS

..... Respondent

Through: Mr Anil Grover, Standing Counsel,
Ms. Kanika Singh and Mr. Jitendra
Kr Tripathi, ASC

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

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31.05.2017

CM APPL. 21894/2017

Exemption allowed, subject to all just exceptions. The application stands disposed of.

W.P.(C) 5134/2017

The petitioner has assailed the order dated 06.04.2017 passed by the Central Administrative Tribunal, Principal Bench, New Delhi (the Tribunal) in O.A. No.2872/2016, whereby the said O.A. of the petitioner has been rejected. The petitioners were appointed as Guest Teachers (Special Educator) in response to an advertisement dated 20.08.2014 issued by the New Delhi

Municipal Council (NDMC). The petitioners were posted at Navyug School, Pataudi House, Canning Lane, New Delhi. They joined their services on 22.01.2015 and worked during the academic session 2014-15, which continued till 10.05.2015. They were reengaged in the same capacity for the academic session 2015-16 and they worked till 10.05.2016 as Guest Teachers.

The respondent NDMC issued an office order dated 05.07.2016 engaging several persons as Guest Teachers in NDMC schools w.e.f. 01.07.2016 in pursuance of the orders passed by the tribunal in O.A. No.696/2016 and other connected O.As.

The grievance of the petitioner is that they were not included in the panel prepared by the respondent NDMC and Navyug School for their reengagement during the academic session 2016-17 and, consequently, they preferred the aforesaid O.A.

The application was contested by the NDMC who filed their counter-affidavit. They explained that 38 sanctioned posts of Special Educators were filled up by Guest Teachers as stopgap arrangement. Three selected candidates i.e. 2 unreserved and 1 SC category were posted to Navyug School on the basis of the request received from the Headmistress of the said school. It was explained that at present there is no vacant post of Special Educators in NDMC school and, therefore, the petitioners cannot be reengaged as Guest Teachers (Special Educators) in NDMC school. Respondent nos.3 and 4 also filed their counter-affidavit. It is explained that being an independent autonomous society, which is not notified under Section 14(2) of the Administrative Tribunal Act, they are not amenable to the jurisdiction of the tribunal. They also stated that the academic session

2016-17 has already commenced and would be over by 31.03.2017. They also stated that they have no requirement as on date for the post of Special Educator, as the school does not have required number of students who require specialised teaching. The stand taken by Navyug School was that since there was very little response, there was no need for Special Educators in their school.

The submission of learned counsel for the petitioner is that in terms of the judgment of the High Court in W.P. (C.) No. 677/2008, *Social Jurist, A Civil Right Group v. GNCTD & Anr* and the CBSE circular dated 25.06.2015, it is mandatory for schools to appoint Special Educators in all schools to ensure effective and meaningful inclusion of children with disabilities in the schools. Learned counsel has submitted that there were 43 students in Navyug School with multiple disabilities, who require Special Educators and thus, the disengagement of the petitioner was not justified on the ground that there was no requirement.

The tribunal rejected the O.A. by observing that it had no jurisdiction over Navyug School. The stand taken by the NDMC was also relied upon to dismiss the O.A.

In case the petitioner is so minded, the petitioner may collect all the relevant facts and data since it is claimed by the petitioners that Special Educators are not being engaged by NDMC and Navyug School in terms of the aforesaid decision and circular. On the basis of the data, it shall be open to the petitioners to raise the issue with regard to engagement of Special Educators by the concerned schools. However, the aforesaid cannot give right to the petitioners to claim reappointment as Guest Teachers in the schools.

For the aforesaid reasons, we find no merit in this petition.
Dismissed.

VIPIN SANGHI, J

DEEPA SHARMA, J

MAY 31, 2017
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