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

+ **W.P.(C) 5351/2017 & CM 22640/2017**

DR RAJIV KUMAR

..... Petitioner

Through: Mr.Garima Prashad, Adv.

versus

UNION OF INDIA & ORS

..... Respondent

Through: Ms.Debajyoti Behuria, Adv. for R1
Mr.Apoorv Kurup,
Mr.A.C.Boxipatro, Advs. for R2-
UGC
Mr.Anurag Mathur, Adv. for R3

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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13.07.2017

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

“(i) to issue a Writ of Certiorari or any other appropriate Writ or order, quashing the advertisement no. RECRUIT/TS/2017 dated 01.06.2017; and

(ii) to issue a Writ of mandamus directing Respondents No. 1 and 2 to conduct an inquiry into the manipulations in the advertisement no. RECRUIT/TS/2017 dated 01.06.2017

which advertise posts which are either non-existent, in excess of the sanctioned strength or under-advertised and in violation to the 200 point model roster and the prescribed rules of reservation, and to take corrective action;

(iii) pass such other and further orders and/or directions in favour of the petitioner and against the respondents as this Hon'ble Court may deem fit and proper in the fact and circumstances of the case".

2. In effect, the challenge of the petitioner is to an advertisement dated 1st June, 2017 issued by the respondent No.3-College for making appointment to certain posts including the posts of Assistant Professor in the Department of Chemistry. The ground for challenge is primarily that the vacancies advertised are in violation of S.C./S.T. Reservation Policy; 200 Point Roster; OBC Expansion Policy and the Rules thereunder framed by the Government of India, UGC and DOPT.

3. Mr.Anurag Mathur, learned counsel appearing for the respondent No. 3 has filed counter affidavit and has taken an objection on the maintainability of the writ petition inasmuch the petitioner had earlier filed a writ petition being W.P.(C) 4423/2017, which was dismissed by this Court on the ground that the petitioner has no locus standi to file the said writ petition as the petitioner has no concern with the appointments made in the

department.

4. Learned counsel appearing for the petitioner states that issuance of the advertisement dated 1st June, 2017 is a fresh cause of action and the petitioner is within his right to approach this Court if the advertisement has been issued wrongly/incorrectly. It is her submission, if the respondents had followed the rules issued by the Government of India, UGC and DOPT, the vacancies under Unreserved category would have been more than one.

5. I agree with the submission made by Mr. Mathur inasmuch as the earlier petition filed by the petitioner being W.P.(C) 4423/2017 was inter alia, for a direction against the respondents for issuance of proper and correct roster in the Department of Chemistry as per the Rules of Government of India, UGC and S.C./S.T. Guidelines with regard to the appointment of Lecturers of Department of Chemistry in the respondent No. 3-College. In other words, the relief as prayed for by the petitioner in the said writ petition even though relates to the preparation of proper roster as per Rules, the same was for determining the vacancies in the Department of Chemistry. The said issue already stood determined by this Court in the earlier writ petition by holding that the petitioner has no locus standi as the petitioner has no concern with the appointments in the department. If that

be so, the plea of the learned counsel for the petitioner that a fresh cause of action has accrued to the petitioner on the issuance of an advertisement, does not appeal to this Court. I have been informed the order dated 22nd May, 2017 in W.P.(C) 4423/2017 has not been challenged. The said order having attained finality as on date, the challenge to the advertisement on the ground that appointment is being made for one vacancy (in UR category), shall not be maintainable. It is also noted that there is no reference made to the writ petition W.P.(C) 4423/2017, in the writ petition, which is a concealment of a relevant fact. It is a fit case, to impose cost upon the petitioner but noting the fact that the petitioner is not employed, he is cautioned to be careful in future and in case the concealment persist in future, a serious view shall be taken. At this stage, I note for record the submission of Mr. Mathur, on instructions, that the petitioner has not applied for one unreserved vacancy.

6. The petition is dismissed.

CM No. 22640/2017

Dismissed as infructuous.

V. KAMESWAR RAO, J

JULY 13, 2017/akb