

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

Date of decision: 04 December, 2017

+ W.P.(C) 12175/2016

SUNIL KUMAR CHHILAR Petitioner

Through: Ms. Garima Sachdeva, Advocate

Versus

NAVYUG SCHOOL EDUCATION SOCIETY AND ORS.

..... Respondents

Through: Mr. Taranvir Singh Khechar &
Mr. Abhinav Gupta, Advocates with Mr. Vikas
Mathur, AO & Mr. K.L. Mighlani, AAO, for
respondent No.1

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

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1. Vide impugned order of 18th July, 2016 (*Annexure P-9*), petitioner's objection to the seniority list of primary teachers has been cryptically dismissed by merely observing that the objection of *not granting marks for experience at the time of interview* is time barred.

2. Learned counsel for petitioner submits that the petitioner was never made aware of the merit list of candidates in respect of interview held on 25th & 26th March, 2009 (*Annexure P-11*) and for the first time petitioner learnt about it in the year 2016.

3. This is disputed by respondents' counsel, who submits that petitioner was aware of it on 15th May, 2015 and it is so evident from the revised seniority list of primary teachers *Annexure-A colly* to the counter affidavit filed by respondent – *Navyug School Educational Society*.

4. Upon hearing and on perusal of impugned order (*Annexure P-9*) and petitioner's objection and representation of 3rd June, 2016 (*Annexure P-7*) and 9th June, 2016 (*Annexure P-8 colly*), I find that petitioner's representation has not been dealt with in the impugned order in the proper perspective. Summary dismissal of objections to the seniority list on the ground of delay and laches has been negated by the Supreme Court in *Shiba Shankar Mohapatra & ors. Vs. State of Orissa & ors.* AIR 2010 SC 706, wherein it has been declared that three to four years is a reasonable period for challenging the seniority list.

5. In view of the above, the impugned order of 18th July, 2016 (*Annexure P-9*) is set aside with direction to first respondent to decide petitioner's objections/ Representation (*Annexures P-7 & 8 colly*) within twelve weeks by passing a speaking order indicating as to how petitioner's objection to the seniority list are time barred. Such a course is being adopted for the reason that merit list of candidates (*Annexure P-11*) of the year 2009 does not show that petitioner's experience of one year and six months was excluded for want of attested photocopies of the experience certificate. It is also required to be considered by first respondent that as per interview letter (*Annexure P-3*), only one set of attested photocopies was required and so, whether first respondent was justified in insisting upon countersigned copies of such certificates.

Before passing a speaking order, an opportunity of personal hearing be afforded to petitioner as well as respondents No.3 to 5, who may be affected by the outcome of respondents' decision on petitioner's objection to the seniority list. The fate of petitioner's objections/Representation (*Annexures P-7 & 8 colly*) be conveyed to petitioner within two weeks of taking the decision, so that petitioner may avail of the remedies, as available in law, if need be.

6. With aforesaid directions, this petition is disposed of.

(SUNIL GAUR)
JUDGE

DECEMBER 04, 2017

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