

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

Date of Order: November 20, 2017

+ **W.P.(C) 10249/2017 & CMs. 41834-41835/2017**

RUCHIR MITTAL Petitioner

Through: Mr. Arvind Dua, Advocate

versus

MINISTRY OF H R D AND ORS Respondents

Through: Mr. Arun Bhardwaj, CGSC for
respondents No.1 & 2

Mr. Anil Kumar Sangal, Mr. Siddharth Sangal
and Mr. Abhay Kumar Tayal, Advocates for
respondents No.3 & 4-SBI

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

1. Learned counsel for petitioner contends that the entire selection process is arbitrary, whimsical and fanciful and that the selection procedure prescribed deviates from the settled position followed in matters of selection. It is asserted by petitioner's counsel that while preparing the merit list, the sectional cut-off has not been adopted. It is pointed out that one of the candidates i.e., *Rahul Agarwal*, had obtained zero marks in one of the papers, still he had qualified for the next level, which is beyond comprehension. To multiply the illustration, attention is drawn by petitioner's counsel to mark-sheets of other candidates as well. Petitioner's counsel has sought to urge the grounds taken in this writ

petition from pages 33 to 58.

2. It is pointed out by learned counsel for respondent-SBI that it is provided in the Advertisement that there will be negative marking and so, zero marks have been awarded and that there is no arbitrariness in the selection. It is further pointed out that the qualifying marks at each level have not been prescribed due to practical problems and instead, aggregate qualifying marks has been provided. The stand of respondent-SBI is that the Sectional Cut-off had to be given a go by because despite reducing the minimum marks at each level, the vacancies could not be filled up.

3. The stand taken on behalf of respondent-SBI is strongly refuted by petitioner's counsel, who submits that the candidates securing zero in a subject can never qualify.

4. Upon hearing, I find that an unsuccessful candidate after taking part in the selection process is precluded from challenging it. It has been so re-emphasized by Supreme Court in a recent decision in *D. Sarojakumari v. R. Helen Thilakom and Others* (2017) 9 SCC 478. Since this very selection was a subject matter in W.P. (C) 10147/2017 titled *Prashan Pranav and Ors. V. Union of India and Ors.* rendered on 16th November, 2017, wherein this Court has relegated petitioners to make a representation and directed respondents to decide it by a speaking order, therefore, this Court refrains from deciding this writ petition on the afore-noted pleas taken by petitioner-herein.

5. Accordingly, petitioner is granted liberty to make a concise Representation within two weeks from today to *Head of Central Recruitment and Promotion Department, Corporate Centre, Nariman Point, Mumbai*. Petitioner would be at liberty to take the pleas herein in

the Representation. Upon receipt of petitioner's Representation, the above-said Authority shall decide it within two weeks by passing a speaking order and its fate be made known to petitioner within a week thereafter so that petitioner may take effective remedies as available in law, if need be.

6. With aforesaid directions, this petition and the applications are disposed of.

(SUNIL GAUR)
JUDGE

NOVEMBER 20, 2017

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