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

+ **W.P.(C) 11620/2017 and CM APPL. 47310-11/2017**

MANISH SHARMA

..... Petitioner

Through: Mr. Rakesh Kr. Khanna, Sr. Advocate
with Mr. Sanjeev Sharma, Ms. Seema Rao and
Ms. S. Bushra Kazim, Advocates

versus

LIEUTENANT GOVERNOR, DELHI & ORS Respondents

Through: Mr. Sanjoy Ghosh with Mr. Rhishabh
Jetley, Advocates for R-2/DHC.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

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22.12.2017

1. The present petition has been filed by the petitioner praying *inter alia* for issuing directions to the respondent No.1/Lieutenant Governor, GNCTD and the respondent No.2/High Court of Delhi, to publish the select list of candidates successful in the Delhi Higher Judicial Service Examination (DHJSE), 2015, in the order of merit, in accordance with the number of vacancies available as on date and de-reserve the accumulated vacancies of the ST category that have not been filled up, in accordance with law. Further, the petitioner seeks directions to the respondents No.1 and 2 to redraw the select and merit list by refraining from relaxing the requirement of minimum 50% for the general category, for candidates eligible for

horizontal reservation available for physical handicapped candidates.

2. Mr. Khanna, learned Senior Advocate appearing for the petitioner states that before filing the present petition, the petitioner had submitted two representations dated 08.12.2017 and 16.12.2017 to the respondent No.2/DHC, (Annexure H) and since neither of them have been responded to, he has had to approach this Court for relief. He further states that amongst others, the petitioner has stated in his representation that other High Courts including the Madhya Pradesh High Court has converted the unfilled vacancies from SC/ST category in the year 2017, by treating them as unreserved, and the petitioner has made a similar request to the respondent No.2/DHC that has yet to be decided.

3. Mr. Ghosh, learned counsel for the respondent No.2/DHC, who appears on advance notice, states that if granted three weeks' time, the respondent No.2/DHC shall consider the aforesaid representations submitted by the petitioner and pass a speaking order, under written intimation to him.

4. In view of the submission made hereinabove, the present petition is disposed of by issuing directions to the respondent No.2/DHC to consider and decide the representations dated 08.12.2017 and 16.12.2017 submitted by the petitioner, in accordance with law within three weeks from today, under written intimation to him.

5. At this stage, learned counsel for the petitioner states that only one candidate from the ST category was found eligible in respect of the advertisement for the DHJSE in the year 2015 and four vacancies in the ST category are still available. In this context, he refers to a Circular issued by the DOPT, Govt. of India in respect of de-reservation of SC/ST vacancies, if they remained unfilled. He states that he may be permitted to hand over the

said Circular to the counsel for the respondent No.2/DHC so that the same can also be taken into consideration by the Competent Authority while deciding the petitioner's representations.

6. A copy of the said Circular shall be furnished to the counsel for the respondent No.2/DHC in the course of the day so that the same is taken into consideration while deciding the petitioner's pending representations. If the grievance of the petitioner still survives, he shall be entitled to seek legal recourse.

7. The petition is disposed of alongwith the pending applications.

HIMA KOHLI, J

REKHA PALLI, J

DECEMBER 22, 2017

rkb/ap