

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

Date of Decision: March 09, 2018

+ **W.P.(C) 7289/2016 & CMs 29982/2016, 2812/2017, 27029/2017
& 28743/2017**

ASHA

.....Petitioner

Through: Mr. Rajesh Banati and Mr. Vikram
Singh, Advocates

versus

UNIVERSITY OF DELHI AND ORS.

.....Respondents

Through: Mr. Mohinder J.S. Rupal,
Advocate for respondent-University of Delhi
Mr. Darpan Wadhwa, Senior Advocate with
Mr. Ankit Mangla and Mr. Sandeep Das,
Advocates for respondent No. 2
Mr. Harsh K. Sharma, Ms. Vaibhavi Sharma,
Mr. Rohit Gaur, Mr. Pulkit Jain and Mr. Vivek
Punia, Advocates for respondent No. 3

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT

1. Vide letter of 6th May, 2016 (*Annexure P-1*), Principal of Respondent-College had conveyed to petitioner that the Staff Council has recommended petitioner as Warden of *Daulat Ram College Hostel* with effect from 21st May, 2016 for a term of two years and petitioner claims that on the strength of the aforesaid letter, she had assumed the charge of Warden on 21st May, 2016 and on that very day, she had received a Show-Cause Notice (*Annexure P-2*) from the Chairperson of the

Governing Body of respondent-College whereby petitioner was intimated that the Governing Body has appointed Dr. Kavita Sharma as the Warden of *Daulat Ram College Hostel*.

2. Petitioner in her reply of 24th May, 2016 (*Annexure P-3*) asserted that she was appointed as College Hostel Warden as per the procedure and in accordance with the University Rules. It is matter of record that the Principal of respondent-College vide letter of 24th May, 2016 (*Annexure P-4*) had called upon the Chairperson of the Governing Body of respondent-College to withdraw the Show-Cause Notice. The Principal of respondent-College vide Notice of 30th July, 2016 (*Annexure P-9*) had invited applications for the post of Warden in question and when petitioner came to know about it, she had written a letter (*Annexure P-10*) to the Principal of respondent-College on 2nd August, 2016 apprising the Principal that her appointment as a Warden was made after following due procedure and the Notice of 30th July, 2016 had dismayed petitioner.

3. In this petition, petitioner seeks quashing of Show-Cause Notice of 21st May, 2016. Learned counsel for petitioner draws attention of this Court to letter of 19th February, 1987 (*Annexure R-2/I to CM 27029/2017*) written by University Grants Commission to the then Vice Chancellor to point out that a Warden in Women Hostel should be appointed by the Principal from amongst the senior teachers in the college. Attention of this Court is also drawn to letter of 13th June, 2016 (*Annexure P-6*) to submit that respondent-University has intimated the Principal of respondent-College that appointment of a Warden in a College Hostel is purely an administrative affair of the College and the University has no role to play in it and respondent-College has been

advised to proceed as per Clause 6-A, 5(b)(iii) of Ordinance XVIII of respondent-University.

4. Learned counsel for petitioner submits that the Staff Council in its meeting of 6th May, 2016 had unanimously elected petitioner for the post of Warden and so, appointment of petitioner as Hostel Warden by the Principal of respondent-College is in consonance with afore-referred Ordinance XVIII. It is submitted that the Notice of 2nd May, 2016 was put up on Notice Board in the College premises, to invite applications for the post of Warden of the college hostel and two applicants i.e. *Dr. Asha and Dr. Manjula Rath* had volunteered to work as a Hostel Warden and in the voting, petitioner had obtained 111 votes of the teachers and so, she was appointed as Warden of the College Hostel in question and thus, the impugned Notice inviting fresh applications ought to be quashed.

5. Learned counsel for respondent No.3-Governing Body of the College in question draws attention of this Court to the Ordinance XVIII to point out that as per Clause 6A thereof, the Staff Council has the power to make a recommendation only and not to make appointments on its own or through the College Principal. It is pointed out that as per Clause 2 of the aforesaid Ordinance XVIII, the Governing Body of respondent-College has general supervision and control over the affairs of the College and as per letter of 23rd October, 2013 of respondent-University to the College Principal, the matter of appointment of Warden/Matron of a College Hostel has to be placed before the Governing Body of respondent-College.

6. It is submitted that the Governing Body of respondent-College in its meeting of 11th September, 2015 had appointed Dr. Kavita Sharma as

the Warden in the College Hostel and in the said meeting, Principal of the College was also a member and the appointment of Dr. Kavita Sharma was for a period of two years.

7. Learned counsel for second respondent-College Principal submits that to resolve this controversy qua impugned Notice, fresh applications have to be now invited and since the appointment of petitioner was not with the approval of the Governing Body of respondent-College, therefore, such a course ought to be adopted.

8. Learned senior counsel for second respondent-Principal of the College in question submits that as per Ordinance XVIII, the Staff Council of respondent-College has to make recommendation for appointment of Warden in College Hostel and submits that since the term of petitioner as a Warden is otherwise coming to an end in May, 2018, therefore, it would be appropriate that vide fresh Public Notice fresh applications be called for the post of Warden of College Hostel and the said appointment as per aforesaid Ordinance XVIII is to be processed by the Staff Council and thereafter, it has to be put up before the Governing Body of respondent-College for approval. It is thus submitted that once such recommendation is received from Staff Council for appointment of Warden for the College Hostel, it ought to be accepted and if not, then the reasons for not doing so, must be spelt out.

9. During the course of hearing, attention of this Court was drawn to an order of 5th May, 2017 in LPA No. 718/2016 titled *The Principal Daulat Ram College v/s University of Delhi & Ors.* to submit that against vacation of an interim order passed in this petition, a Division Bench of this Court in appeal has clarified that pendency of the appeal will not

come in the way of this Court in deciding the Writ Petition and vide Order of 22nd December, 2016, parties have been directed to maintain *status quo*, meaning thereby, the post of Warden in question remains vacant.

10. Upon hearing and on perusal of impugned Notice and the material on record, I find that respondent-University has clarified in its Communication of 13th June, 2016 (*Annexure P-6*) that appointment of a Warden in a College Hostel is an administrative affair of the college and respondent-College has been rightly advised to act as per Clause 6A, 5(b)(iii) of the Ordinance XVIII.

11. Prior to the aforesaid clarification, respondent-University in its Communication of 23rd October, 2013 (*Annexure C to CM No. 32544/2016*) had advised the Principal of respondent-College to place the matter of appointment of a Warden/Matron in the College Hostel before the Governing Body of the college and rightly so, as Ordinance XVIII clearly provides that the role of the Staff Council of respondent-College is to make recommendation and not to make appointment.

12. In the face of the aforesaid Communication of respondent-University, reference to University Grants Commission's letter of 19th February, 1987 to the University regarding appointment of Warden by the College Principal, is of no avail. Such a view is taken because as per Ordinance XVIII, the role of the Staff Council of respondent-College is only to make recommendation to Governing Body of respondent-College.

13. In view of the aforesaid, appointment of petitioner as a Warden in the hostel in respondent-College by the College Principal is held to be irregular. The unanimous recommendation ought to have been placed

before the Governing Body of respondent-College, which has not been done and so, issuance of fresh impugned Notice seeking appointment of a Warden cannot be faulted with. It is matter of record that during pendency of this petition, petitioner had not worked as Warden in the Hostel of respondent-College and the said post is lying vacant.

14. In the facts and circumstances of this case, this petition and application are disposed of with direction to the Governing Body of respondent-College to initiate the process of appointment of Warden in the Hostel of respondent-College within a period of two weeks by inviting fresh applications via Public Notice on official website of respondent-College, for the post of Warden in question and it be placed before the Staff Council of respondent-College, who shall make recommendation for the post of Warden in the College Hostel within a period of four weeks and the said recommendation be considered by the Governing Body of respondent-College within two weeks thereafter, so that the post in question is expeditiously filled up.

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

Dasti.

(SUNIL GAUR)
JUDGE

MARCH 09, 2018

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