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

Date of Decision: 01st October, 2018

+ W.P.(C) 9968/2017 & CM APPL. 40601/2017

VIVEK KUMAR SRIVASTAVA Petitioner

Through: Mr. Samrendra Kumar with
Mr. Rahul Jaiswal, Advs.

versus

GOVT. OF NCT OF DELHI & ORS. Respondents

Through: Mr. Gautam Narayan, ASC for
GNCTD with Ms. Shivani Vij &
Ms. Mahamaya Chatterjee, Advs. for
GNCTD.
Mr. Saurabh Chauhan with Mr. Varun
Jain, Advs. for R-2.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE V. KAMESWAR RAO

J U D G M E N T

RAJENDRA MENON, CHIEF JUSTICE (Oral)

1. This petition in public interest has been filed and the prayer made reads as under:

“a. Issue appropriate writ, orders or direction in the form of quo warranto/mandamus to declare the appointment of respondent no.2 void ab initio.

b. Issue appropriate writ, orders or direction in the form of certiorari thereby declare all the order pertaining to DIHRM

taken by Lt. Governor void ab initio.

c. Issue appropriate writ, orders or direction in the form of MANDAMUS thereby direct respondent no. 1 to recover all the monetary benefit withdrawn illegally by the respondent no.2. ”

2. Respondent No.2 was initially appointed by the Delhi Institute of Heritage Research and Management (DIHRM) sometimes in the year 1998. It is alleged in the writ petition that while seeking the said appointment in the year 1998 he did not disclose the fact about his involvement in certain acts of commission and omission while working in the Aligarh Muslim University for which departmental proceedings were held.

3. It is alleged that on 16.07.1999 he was confirmed in the service of DIHRM without following the Recruitment Rules and the UGC norms. However, the appointment of respondent No.2 took place on 23.04.1998 and he was confirmed on 16.07.1999. None of these orders were challenged till filing of this writ petition sometimes in November, 2017. Challenge to the initial appointment, in our considered view, cannot be made now.

4. Thereafter, it is stated that in the year 2003-04 respondent No.2 was involved in certain acts of commission and omission for which disciplinary action was taken against him but the Lieutenant Governor quashed the disciplinary proceedings on 06.01.2010 in spite of the fact that according to the opinion given by the Attorney General of India on 28.07.2010 the Lieutenant Governor has no authority for directing appointment in the DIHRM.

5. It is thereafter stated that in the year 2010 the DIHRM imposed penalty of punishment of removal from service which was challenged by respondent No.2 before this Court but the writ petition was withdrawn in the

year 2017 after the Lieutenant Governor directed for his reinstatement on 14.11.2014. Narrating all these factors, the only prayer made is that a writ of *quo warranto* be issued declaring the appointment of respondent No.2 as *void-ab-initio*.

6. The appointment of respondent No.2 was made in the DIHRM as indicated hereinabove way back in the year 1998-99 and now after more than about 19-20 years this appointment cannot be looked into. That apart, in case the powers of disciplinary authority exercised by the Lieutenant Governor were unsustainable, there has to be a specific prayer for quashing the orders dated 06.01.2010 and 14.11.2014 passed by the Lieutenant Governor.

7. There is no such specific prayer made in the writ petition and taking note of all these facts, we are not inclined to go into all these aspects of the matter. Accordingly, finding no ground to make any indulgence into the matter in this Public Interest Litigation, the same is dismissed. The pending application also stands disposed of accordingly.

CHIEF JUSTICE

V. KAMESWAR RAO, J

OCTOBER 01, 2018

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