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

% *Date of Judgment: 23rd August, 2019*

+ **W.P.(C) 9119/2019**

PRITIKA & ORS.

..... Petitioners

Through: Mr.Aditya Aggarwal, Mr.Ankit
Mutreja, Mr.Amit Rana and
Ms.Ruchika, Advocates

versus

**DELHI SUBORDINATE SERVICES SELECTION BOARD
(DSSSB) & ORS.**

..... Respondents

Through: Mrs.Avnish Ahlawat with Mr.Nitesh
Singh, Advts. for R-1 and R-2.
Mr.Arun Birbal and Mr.Sanjay Singh,
Advocates for SDMC/R-3.
Mr.Sanjeev Sabharwal, standing
counsel for East DMC/R-4 with
Mr.Hem Kumar and Ms.Bushra
Waseem, Advocates.
Ms.Namrata Mukim, Adv. for North
DMC/R-5.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

G.S. SISTANI, J. (ORAL)

C.M.37642/2019 (exemption)

1. Exemption is allowed, subject to all just exceptions.
2. Application stands disposed of.

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3. Counsels for the respondents enter appearance on advance copy.

4. The present petition is directed against the order dated 26.07.2019 passed by the Central Administrative Tribunal (CAT). Some necessary facts, which gave rise to filing of OA before the CAT, which are required to be noticed are that:
- (a) an advertisement was published in the newspaper by the Delhi Subordinate Services Selection Board (DSSSB)/respondent no.1 on 07.08.2017 for filling up 1286 vacancies for the post of Primary Teacher in Municipal Corporation of Delhi (MCD) under OBC Delhi category;
 - (b) these posts were re-advertised on 26.06.2018 and entrance tests were conducted in four slots between 30.09.2018 and 28.10.2018;
 - (c) on 01.02.2019, the respondent No.1 declared cut-off marks of 98.50 for the OBC Delhi category and candidates were allowed to upload e-dossiers subject to attaining minimum qualifying marks and correctness of the information furnished;
 - (d) E-dossiers of 2576 candidates for filing-up 1286 vacancies were uploaded and the names of the petitioners were also amongst the shortlisted candidates;
 - (e) on 28.03.2019, results were declared and 980 candidates were selected out of 2576 shortlisted candidates; besides another list of 180 pending candidates;
 - (f) the petitioners were not selected.
5. During the course of hearing, we asked the learned counsel for the petitioner to point-out the relevant paragraph in the O.A., which sets-out his grievance. Learned counsel has placed reliance on paragraph 4.9 of the O.A., which we reproduce below:

“4.9 That the applicants through their resources came to know that the respondent no.3 i.e. MCD after receiving the abovesaid complaint/s of the applicants is conducting a formal verification of the genuineness of the OBC Certificate of only 77 candidates which were selected vide the result notification 774 dated 16.04.2019 and not of all the candidates which were selected earlier. It is further submitted that the respondent no.3 i.e. MCD directed the abovesaid persons to appear before the verification committee and requested them for bringing original OBC (Delhi) Certificate and original documents of residential proof of Delhi prior to 1993 on the basis of which their OBC Certificate has been issued to prove the genuineness of your OBC (Delhi) Certificate. It is to be noted that the abovesaid act of the respondent no.3 is a clear case of camouflage. It is further submitted that in the abovesaid notification the MCD has not published about the documents which would be considered as genuine documents to prove their residential status prior to 1993.”

6. Learned counsel for the petitioner submits that a cursory glance would show that in the list of 180 candidates, there were OBC candidates from outside Delhi. He submits that even in the finalised list, there are many candidates who do not qualify as being OBC candidates from Delhi.
7. In this backdrop, the following prayers were made before the Tribunal , which we reproduce below:

“(a) Allow the present OA and may pass an order/direction to declare the concerned candidates who were selected on the basis of OBC Delhi Caste Certificate procured on the basis of forged and fabricated documents in order to comply with the guidelines issued by the respondent no.2 (i.e. Revenue Department) as ineligible for the concerned post.

(b) May pass the direction/order for judicial inquiry for ascertaining/verifying the documents submitted by the candidates who applied for the said post under the OBC Category before the respondent no.2 (i.e. Revenue Department) for procuring the OBC Delhi Caste Certificate.

(c) May direct the respondents to appoint the applicants on the post of MCD Primary Teacher vacancies (Post code – 16/17 & 01/18).

(d) May direct the respondent no.1 to further extend the validity of the wait list/panel for such period as may be necessary

(e) Allow the present application with cost, in favour of the applicant.”

8. Ms.Avnish Ahlawat, learned counsel for the respondents No.1 and 2, submits that the role of DSSSB/respondent No.1 is limited and is confined to conducting the examination and declaring the results, which has since been done and the results have been forwarded to the User Department, namely the MCD.

9. Attention of the Court is drawn to para 11 of the communication addressed to the User Department, which is also reproduced below:

“11. The User department shall also check the eligibility of the reservation benefit, if any. Further, if applicable, User Department shall verify the genuineness of the caste certificate furnished by the candidate prior to issuing offer of appointment to the candidates. The Competent Authority of the User Department shall arrange to verify the correctness of the information/documents as furnished in the application forms and e-dossier vis-à-vis the original documents, MCD is requested to ascertain the scrutiny/correctness of the same at their own level before issuing the offer of appointment to the provisionally selected candidates. Further, the appointing authority shall verify and satisfy itself about the authenticity of documents/certificates and essential qualification for the post before finally appointing the candidate. The User Department is also requested to rectify/correct, in case, any minor/clerical error/deficiency noticed in the documents of the candidate at their own level.”

(Emphasis Supplied)

10. Reliance is placed by Ms.Ahlawat on the aforementioned para 11 to buttress her submission that it is for the User Department to check the eligibility of the reservation benefit and the genuineness of the caste certificate furnished by each candidate, prior to issuing offers of appointment to the candidates. She further submits that the competent authority of the User Department verifies the correctness of the information/documents as furnished in the application forms and e-dossiers vis-à-vis the original documents. In short, the submission of Ms.Ahlawat is that no relief would lie against respondents Nos.1 and 2.
11. As far as the User Department is concerned, learned counsels for the respondents submit that results are yet to be finalised and the entire verification is yet to be carried out. They further submit that there is no infirmity, illegality or impropriety in the order by the Tribunal, that would warrant interference. In fact, liberty has been granted to the petitioners to approach the Tribunal again after declaration of the results, in case the petitioner is able to show that an application of a candidate has been approved despite not being an OBC candidate from Delhi.
12. We have heard the learned counsel for the parties. We find that the OA before the CAT and the writ petition filed here are only on account of the fact that the petitioners did not qualify the cut-off list. Prayers made in the OA and the relief sought amounts to a fishing and roving enquiry, which cannot be permitted. The prayer made against DSSSB is almost an absurdity, considering that DSSSB conducts almost 1000 examinations per year; if such applications are allowed, even prior to

the publication of the final results, no examination would ever see finality.

13. Accordingly, we find no merit in this writ petition as the same is premature. The allegations and contentions raised are vague, non-specific and such a petition cannot be entertained.
14. Resultantly, the writ petition is dismissed with costs of Rs.10,000/- to be paid to the Juvenile Justice Board, Delhi.

G.S. SISTANI, J.

ANUP JAIRAM BHAMBHANI, J.

AUGUST 23, 2019/rb