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

Date of Decision: 02.09.2019

+ W.P.(C) 10116/2018 & CM APPL.39494/2018

DR. VIRENDRA KUMAR SINGH Petitioner
Through: Mr. Sushil Dutt Salwan & Mr. Arjun
Garg, Advs.

versus

COUNCIL OF SCIENTIFIC AND INDUSTRIAL RESEARCH AND
ORS. Respondents

Through: Mr. Jayesh K. Unnikrishnan, Adv. for
Mr. Siddharth Manocha, Adv. for R-1
Mr. Vivek Goyal, CGSC with Mr. Ram Kishan
Kumar, Adv. for UOI
Mr. Indrajit Sinha, Ms. Cauveri Birbal &
Mr. Arpan Mishra, Advs. for R-3
Mr. Ripu Daman Bhardwaj, SPP for R-4/CBI

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE C.HARI SHANKAR

JUDGMENT

D.N. PATEL, CHIEF JUSTICE (ORAL)

1. This public interest litigation has been preferred with the following prayers:

“a) For issuance of an appropriate writ/order/direction calling upon respondents 1 and 2 to produce records pertaining to the appointment of respondent no. 3 in the

Central Institute of Mining and Fuel Research (CIMFR) till date.

b) For issuance of a writ or direction to respondent no. 4 calling upon the said respondent no. 4 to produce the files/records pertaining to the investigation carried out by the said respondent, consequent to the complaint received by it against respondent no.3 bearing ref. no. CO/DHN/2016/0001 as well as the report prepared and submitted by it based on the said enquiry.

c) For issuance of an appropriate writ/order in the nature of quo warranto calling upon the respondents 1 and 2 to show as to how and under what authority respondent no. 3 was appointed in the Institute of respondent no.1 and at present serving as the Director of the said institute, namely Central Institute of Mining and Fuel Research; Dhanbad and consequently hold that the appointment of respondent no. 3 was illegal as it was based on fraud as well as concealment of facts and thus dismiss the said respondent no. 3 from the services of respondent no.1.”

2. Having heard the counsel for petitioner and looking into the facts and circumstances of the case, it appears that this petition has been preferred for the fact that the respondent No.3 has been wrongly appointed on the post of Scientist B and also as the Director in the Central Institute of Mining and Fuel Research, Dhanbad and hence prayed for issuance of writ of *quo warranto*. Counsel appearing for the petitioner submitted that for the post of Scientist B, M.Sc. degree is required. It is submitted by the counsel for petitioner that this M.Sc. decree was obtained by the respondent when he was employed with the State bank of India and suppressed this fact. An application for the appointment at the Central Institute of Mining and Fuel Research, Dhanbad was preferred and hence the respondent No.3 is not possessing the required qualification.

3. Having heard the counsel for petitioner and looking into the facts and

circumstances of the case, we find no reason to entertain this writ petition mainly for the following reasons:

- (i) It has not been mentioned in the writ petition that this petitioner and the respondent No.3 were shortlisted for the purpose of appointment as Director in Central Institute of Mining and Fuel Research, Dhanbad. Thus, this petitioner has suppressed the material fact that he was at the relevant time considered for the post of Director but the respondent No.3 was selected leaving aside this petitioner.
- (ii) It further appears from the facts of the case that the respondent No.3 was appointed on the post of Scientist B in the year 1990 and this writ petition has been preferred in the year 2018.
- (iii) It further appears from the facts of the case that after being appointed as Scientist-B, the respondent No.3 got promotions and reached to the post of Director. At the relevant stage, this petitioner and respondent No.3 both, were competing for the post of Director but this petitioner was not appointed on the post of Director and respondent No.3 was appointed on the post of Director. Hence, also, this writ petition as public interest litigation is not tenable at law, especially when this fact was suppressed. It further appears from the facts of the case that respondent No.3 even on today possess the requisite qualification of the degree of M.Sc. for the post of Scientist B and thereafter has got promotions one after one and at present is Director at Central Institute of Mining and Fuel Research, Dhanbad.

- (iv) Much has been argued by the counsel for the petitioner that the M.Sc. Degree obtained by this petitioner was during the period when the respondent No.3 was serving in the State Bank of India and has wrongly stated the fact in his qualification for getting recruitment in Central Institute of Mining and Fuel Research, Dhanbad.

This contention is not accepted by this Court mainly for the reason that the degree of M.Sc. of respondent No.3 is valid even on today. The degree of M.Sc. has been conferred on respondent No.3 by Banaras Hindu University and has not been withdrawn/cancelled by the said university. Thus, it is yet to be established that M.Sc. degree obtained by respondent No.3 was cancelled/misdeclared by respondent No.3. Writ of *quo warranto* cannot be issued when the respondent No.3 is already possessing the necessary qualification for the post in question as stated hereinabove.

4. Thus, for the aforesaid reasons, there is no substance in the writ petition and the same is therefore dismissed with the costs of Rs.10,000/- (Rupees ten thousand only). This amount will be deposited in the Bank Account No.15530110000359, Registrar General Account, Juvenile Justice Centre SB, UCO Bank, Delhi High Court, New Delhi either by cheque or bank draft, within a period of six weeks from today, towards Juvenile Justice Fund. This amount shall be utilised by the Government of NCT of Delhi to perform duties under the Juvenile Justice Act, 2015 for the welfare of the juveniles.

5. A copy of this order will be sent to the Member Secretary, Delhi State

Legal Services Authority, Central Office, Patiala House Courts Complex,
New Delhi – 110001.

CHIEF JUSTICE

C.HARI SHANKAR, J

SEPTEMBER 02, 2019
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