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

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Date of decision: 02.12.2020

+ W.P. (C) 10551/2019

VISHAL SARASWAT

..... Petitioner

Through: Mr. Rakesh K. Khanna, Senior
Advocate with Mr. Vishnu
Sharma, Mr. Ikat Anand and Ms.
Vijeta Singh, Advocates.

versus

UNION OF INDIA AND ANR.

..... Respondents

Through: Ms. Tatini Basu, Advocate.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

JYOTI SINGH, J. (ORAL)

Hearing has been conducted through Video Conferencing.

CM No. 30906/2020

1. Present application has been filed by the Respondents seeking vacation of the interim order dated 27.09.2019 directing the Respondents to reserve one post for the Petitioner.
2. With the consent of the learned senior counsel for the Petitioner and counsel for the Respondents the main petition is taken up for hearing and the application is heard along with the writ petition.

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3. An Advertisement No. 1/2017 was issued by the Respondents advertising 20 vacancies for the Post of Assistant Legislative/Committee/Protocol/Executive Officer. The vacancy position was subsequently revised with increase of one vacancy under the Unreserved category, taking the total of the advertised vacancies to a figure of 21.

4. Petitioner herein was admittedly included in the list of 21 candidates who were provisionally recommended for appointment to the post in question in the Rajya Sabha Secretariat vide final result/merit list dated 20.06.2019 published by the Recruitment Cell of the Secretariat, having cleared the Preliminary Examination as well as the Main Examination.

5. As per the extant Government Policy, duly adopted by the Rajya Sabha Secretariat, the verification of character and antecedents of a candidate, to be appointed, after selection, is carried out, though issue of appointment letters is not withheld pending such verification. A provisional appointment letter is issued after receiving the Attestation Form and Self Declaration Form from the candidate.

6. In accordance with the policy note on the proposed reforms in the policy of verification and character done prior to the appointment in Government service, circulated vide DOPT O.M. No. F.N. 18011/2(s)/2016-Estt (B) in March, 2016, the candidate along with the details of Attestation Form is required to submit a Self-declaration Form certifying that no criminal case is pending against him or her, no penal action has been taken in any Court of Law etc. and in case a criminal case

is pending or some punishment has been awarded, the details thereof have to be furnished. Thereafter the Competent Authority takes a view on issuing the Offer of Appointment, on receipt of Police Verification Report.

7. It is an admitted fact between the parties herein that in the Attestation Form filled by the Petitioner, during the pre-appointment formalities, he had declared on 08.08.2019 that a criminal case vide FIR No. 731/2017 had been registered against him and his parents, brother and sister on 26.07.2017 under Sections 498A, 324, 323, 504, 506 IPC and Sections 3 & 4 of Dowry Prohibition Act, 1961 at Police Station Kotwali, District Mathura, U.P. The Petitioner had also, while making a request for conditional appointment to the post, submitted a copy of the order dated 27.06.2018 passed by the Additional Chief Judicial Magistrate granting him bail.

8. Based on the said information the Competent Authority of the Respondents sought the status of the case as also Police Verification Report from the concerned Police Authorities. Before a final decision on the candidature of the Petitioner could be taken by the Competent Authority, the present petition was filed by the Petitioner on 24.09.2019 and vide order dated 27.09.2019 Court passed an interim order reserving one post.

9. By way of the application being CM No.30906/2020, Respondents have brought on record the developments that have taken place during the pendency of the present petition. It is stated in the application that Police Verification Report has been received intimating to the Respondents that charge sheet has been filed against the Petitioner. Respondents seek

vacation of the interim order and liberty to proceed further and take a final decision regarding the appointment of the Petitioner.

10. Mr. Rakesh K. Khanna Learned Senior Counsel appearing on behalf of the Petitioner, on instructions, submits that Petitioner has no objection if the writ petition is disposed of permitting the Competent Authority of the Respondents to take a final decision in the matter with regard to the offer of appointment to the Petitioner.

11. I have heard the Learned Senior Counsel for the Petitioner and counsel for the Respondents.

12. Since the Police Verification Report has been received, as per procedure, in my view the apt course of action would be to permit the Competent Authority of the Respondents to take a final decision with regard to the appointment of the Petitioner to the post of Assistant Legislative/Committee/Protocol Executive Officer. Needless to state the decision shall be taken with an open mind and will be fair and unbiased.

13. The decision shall be taken by the Respondents within a period of two weeks from today. In case the Respondents decide to issue an Offer of Appointment in favour of the Petitioner the same shall be issued and communicated to the Petitioner within two weeks of the decision. However, if the decision is adverse to the Petitioner, the decision shall be communicated within two weeks from the date of the decision.

14. In the event that the Respondents decide against the Petitioner, they will not fill up one post, reserved by the interim order of this Court, for a period of two weeks from the date the decision is communicated to the Petitioner, to enable him to take recourse to the remedies available to him in law.

15. It is made clear that the Court has not expressed any opinion on the merits of the case.

16. Petition is disposed of along with the accompanying applications in the above terms.

17. Date of 14.01.2021 is cancelled.

JYOTI SINGH, J

DECEMBER 02, 2020

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