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

+ LPA 180/2020 and CM APPL. Nos. 15872/2020, 15873/2020, 15874/2020, 15875/2020, 15876/2020

DR. PRADEEP SHINDE & ORS.

... Appellants

Through: Mr. Akhil Sibal, Sr. Advocate with Mr. Maanav Kumar, Ms. Roshni Namboodary, Ms. Nupur Agarwal, Ms. Nitya Gupta and Ms. Sonali Malik, Advocates.

Versus

JAWAHARLAL NEHRU UNIVERSITY THROUGH
ITS VICE CHANCELLOR & ANR.

.... Respondents

Through: Ms. Monika Arora, Advocate for R-1. Ajay Digpaul CGSC with Mr. Kamal R. Digpaul for Respondent/ UOI.

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

HON'BLE MR. JUSTICE TALWANT SINGH

ORDER

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21.07.2020

The present matter has been taken up for hearing by way of Video Conferencing on account of COVID-19.

1. The appellants have filed the present Letters Patent Appeal, against assailing the interlocutory order dated the 10.07.2020, passed by the learned Single Judge in CM No.14769/2020 in Writ Petition (Civil) No.4114/2020.

2. The appellants are aggrieved by the circumstance that whilst issuing notice in the subject writ petition, as well as, the said interim application, the learned Single Judge did not grant the interim stay, as prayed for by them.

3. In the instant appeal, the appellants have essentially prayed that the prayers sought for by them in the said interim application be allowed during the pendency of the proceedings. For the sake of clarity, the relief prayed for in the instance appeal are enumerated as under:

- (i) *Pass an order granting an interim stay on Advt. No. RC 60/2019 and Advt. No. RC 61/2019, issued on 19.08.2019;*
- (ii) *Pass an order granting an interim stay on the Respondent No.1 taking any action whatsoever under the Impugned Ads, such as screening, interviews, issuance of appointment letters, and confirmation of appointments by the Executive Council;*
- (iii) *Pass an order directing Respondent No.1 to furnish the previous roster, as well as the complete new roster as prepared by it;*
- (iv) *Pass an order directing Respondent no.1 to file an affidavit, explaining the discrepancy between the number of vacant SC/ST posts in the University, and the number of SC/ST posts advertised under the impugned Ads;*
- (v) *Pass any such further orders as this Hon'ble Court may deem fit in the facts and circumstances of the instant case and/or in the interest of justice.*

4. Mr. Akhil Sibal, learned Senior Counsel appearing on behalf of the appellants would urge that although in the earlier advertisement issued by the respondent in the year 2017 certain posts were reserved, which enured to the

benefit of appellants Nos.1 and 2 herein, the said post no.135 and 60 have been shown in the altered categories namely ST and unreserved in the advertisement, impugned in the subject writ petition.

5. The learned Single Judge recorded the grievance of the appellants in the order impugned in the present appeal as follows:

“Specific grievance of Petitioner No.1 is that post No. 135 under Advertisement No. RC 61/2019, against which he was proposing to apply, and which was reserved for SC candidate, has now been converted into an ST post. Grievance of Petitioner No. 2 is that the post number 60 under Advertisement RC 60/2019, against which he was desirous of applying and was reserved for the ST candidate, has now been de-reserved and converted to an Unreserved post. According to the Petitioners, they are eligible for consideration against these reserved posts, respectively according to the roster points and this action has adversely affected their consideration”.

6. Mr. Akhil Sibal, learned Senior Counsel would urge that the afore-extracted submission was not considered by the learned Single Judge in the impugned order and no injunction was granted as sought for and only notice was issued in the subject writ petition, as well as, the said interim application, returnable on the 07.10.2020, for completion of pleadings. It is submitted on behalf of the appellants that the EC of the University is scheduled to meet in the next couple of days for the purpose of making the subject appointment and that if the said appointments are made in the meantime, the subject writ petition itself may be rendered infructuous and in case the same is to be prosecuted any further, the petitioners would necessarily have to implead the persons, who may be appointed to such posts, which would lead to further complications and multiplicity of proceedings.

7. On the other hand, Ms. Monica Arora, learned counsel appearing for the respondent University, on advance notice, would submit that as far as the posts mentioned at serial number 135 and 60 are concerned, with which the appellants No.1 and 2 are concerned, no such appointments are being made in the next EC meeting. Ms. Monica Arora, Advocate further submits that, in order to expedite proceedings in the subject writ petition as well as, the said interim application, the respondent undertakes to file their Counter Affidavit, within two weeks from today and the appellants herein may be directed to file their Rejoinder Affidavit in the writ petition, within one week thereafter, and the writ petition itself may be directed to be heard by learned Single Judge on the merits, expeditiously.

8. Having heard learned counsel appearing on behalf of the parties and perused the appeal paper book, the only course of action that commends itself to us, in order to avoid rendering the subject writ petition infructuous and the reliefs prayed for in the said interim application illusory; and to obviate multiplicity of proceedings, to dispose of the present Letters Patent Appeal with the following directions:

- (i) The respondent University is directed to file its Counter Affidavit to the subject writ petition within two weeks from today with an advance copy to learned counsel for the appellants herein, who may file the Rejoinder Affidavit thereto, within one week thereafter;
- (ii) The learned Single Judge is requested to advance the date fixed for the hearing of the subject writ petition viz. W.P. (C) 4114/2020 as well as the said interim application to 31.08.2020 and to commence hearing

the same from that date itself without granting any unwarranted adjournments to the parties;

(iii) In the meantime, the respondent University is directed not to make any appointments on posts numbers 135 and 60, for which the appellant numbers 1 and 2 are laying their claim.

9. It is made clear that nothing observed hereinabove shall be construed as an expression on the merits of the case.

10. No further directions are prayed for.

11. The appeal is disposed of in above terms.

12. A copy of this order be provided electronically to counsel appearing on behalf of the parties and be also uploaded on the website of this Court forthwith.

SIDDHARTH MRIDUL, J

TALWANT SINGH, J

JULY 21, 2020/nk