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

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Date of decision: 14.07.2021

+ **W.P.(C) 6474/2021 & CM Nos.20355-57/2021**

UNION OF INDIA & ANR.

.....Petitioners

Through : Mr. Harish Kumar Garg, Adv.

versus

ANUBHAV SHARMA

.....Respondent

Through : None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE TALWANT SINGH

RAJIV SHAKDHER, J.: (ORAL)

CM No.20356/2021

1. Allowed, subject to just exceptions.

W.P.(C) 6474/2021 &

CM No.20355/2021 [*Application filed on behalf of the petitioners seeking stay on the operation of the impugned order dated 31.08.2020*]

CM No.20357/2021 [*Application filed on behalf of the petitioners seeking leave to bring on record additional documents*]

2. Via this writ petition, challenge is laid to the judgement dated 31.08.2020, passed by the Central Administrative Tribunal (in short 'the Tribunal').

2.1 The petitioners are aggrieved by the impugned judgement, principally, on account of the directions contained therein, whereby, in effect, the respondent has been accorded an opportunity to change his category from

‘unreserved’ (in short “UR”) to ‘economically weaker section’ (in short “EWS”).

2.2. Mr. Harish Kumar Garg, who appears on behalf of the petitioners, says that the impugned judgement is flawed, as it would impact the manner in which examinations are conducted by the petitioners in future.

3. Briefly, the controversy in the case veers around the following circumstances.

3.1 Petitioner no. 1 i.e. the Staff Selection Commission (SSC), had uploaded a notice for appointment of Constable (Executive), in the Delhi Police in both male and the female category.

3.2. The notice for conducting the examination for appointment to the aforementioned posts was uploaded on the petitioners’ website on 01.08.2020. The closing date for receipt of the applications was 07.09.2020.

3.3. As per the aforesaid notice, the applicants had to follow a two-step procedure. The first step involved registration, while the second step involved uploading of the online application.

3.4. It appears that the respondent, as alluded to above, made a mistake in indicating in his application that he fell in the EWS category. Pertinently, at the time when the respondent had filled up the online registration form, the EWS category was not available. However, Mr. Garg, on behalf of the petitioners’, emphasizes that, the instructions uploaded on the website [which formed part of the aforementioned notice of examination], provided ample opportunity to the applicants, which included the respondent, to edit and/or amend the online application form i.e. change his category from UR to EWS. For this purpose, our attention has been drawn to Annexure-II, Sr.

No.18 of the notice of examination¹, which is appended on page 93 of the paper book. [See Footnote 1].

3.5. It appears that the respondent, in this behalf, had made a representation to the petitioners, which remained unanswered. This impelled the respondent to approach the Tribunal for obtaining requisite relief. The Tribunal, as indicated above, disposed of the respondent's original application [OA], and while doing so, issued the following directions:

- “8. We, therefore, dispose of the OA directing that –
- (a) the applicant shall approach the office of the 2nd respondent on 03.09.2020 at 10:30am.
 - (b) the Regional Director shall identify an officer to assist the applicant to upload the relevant entries in the form.
 - (c) Once that is done, the application so submitted by the applicant shall be treated as the basis and not the one earlier.
- There shall be no order as to costs.”

4. Mr. Garg informs us that the respondent, in the meanwhile, has taken the examination for appointment to the post of constable, *albeit*, as a UR candidate.

4.1 Therefore, to our minds, insofar as the examinations, that would possibly held in future are concerned, they would not get impacted, as is apprehended by the petitioners, as the directions contained in the impugned judgement are confined to the respondent.

4.2. The Tribunal, in this case, has exercised its discretion in the matter and issued certain directions having regard to the circumstances which

¹ “18. Preview and verify the information provided by you. If you want to modify any entry, click on 'Edit/Modify' button and make requisite corrections before proceeding further. When you are satisfied that the information is correctly filled, preview and verify the information and submit the Application. You will not be able to make any correction in the online application after submission of the application.”

obtained in the matter.

4.2. Given the foregoing circumstances, we would refrain from supplanting our views with those of the Tribunal as that is not the remit of this Court under Article 226 of the Constitution. Had this Court been dealing with the original action, we may have reached a different conclusion, but that by itself, cannot be a reason for us to interdict the directions issued by the Tribunal *via* the impugned judgement.

4.3. More importantly, since the exam has already been held, its impact can only be ascertained once the result is known. It is only if the respondent is declared successful that the petitioners would have to take a call as to, whether the respondent should be treated as a candidate falling in the EWS category.

4.4. The record shows that the petitioners have not refuted the fact that, the respondent fell in the EWS category, possibly, for the reason, the entire issue revolved around whether or not the category would be changed. However, that is an aspect which we would not like to dilate upon, at this stage. It is only, if, the respondent succeeds in the examination and the petitioners find that the respondent falls in the EWS category, the directions issued by the Tribunal would have any meaning.

4.5. We also note that, although, the impugned judgement was rendered as far back as on 31.08.2020, the petitioners chose to approach the Court after nearly 11 months. We are informed by Mr. Garg that the subject examination was conducted on 14.12.2020. The delay in approaching the Court has, in our view, to a great extent, diluted the argument advanced on behalf of the petitioners that they were concerned that the impugned judgement could impact examinations that may be held in future.

5. For us, the takeaway from the case is, that although, technology allows for inclusion, it can also be exclusionary. It is an enabler of solutions as also creator of myriad problems. The present matter being a case in point.
6. Therefore, for the foregoing reasons, we are not inclined to interfere with the impugned judgement. The writ petition is, accordingly, dismissed. Consequently, the interlocutory applications shall stand closed.
7. The case papers shall stand consigned to the record.

RAJIV SHAKDHER, J

TALWANT SINGH, J

JULY 14, 2021

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[Click here to check corrigendum, if any](#)