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

% *Date of Decision: 20th December, 2022*

+ W.P.(C) 17366/2022 & C.M. APPL. 55276/2022

SONYA SURABHI GUPTA Petitioner
Through: Mr. Abhik Chimni, Mr. Ch.
Animes Prusty and Mr. Mukul Kulhari,
Advocates.

versus

JAMIA MILLIA ISLAMIA Respondent
Through: Mr. Pritish Sabharwal, Standing
Counsel with Mr. Shashank, Advocate.

CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH

JUDGEMENT

JYOTI SINGH, J. (ORAL)

1. This writ petition has been filed by the Petitioner seeking quashing of the Office Memorandum bearing No. F.3210(SSG)/Estt.-T/RO/JMI/2022 dated 17.11.2022, issued by the Respondent University, whereby Petitioner has been suspended with immediate effect pending a proposed disciplinary inquiry. Challenge is also laid to an order dated 29.11.2022 whereby the Competent Authority has granted approval for payment of subsistence allowance to the Petitioner from the date of suspension i.e. 17.11.2022 as per Rules.

2. Learned counsel for the Petitioner submits that Petitioner joined the Respondent on 27.09.2006 as Professor-Director in the Centre for Spanish and Latin American Studies and has dedicatedly worked with an impeccable and unblemished record. It is submitted that the

problem of the Petitioner started when on 19.10.2022, the Executive Committee of the Jamia Teachers Association (JTA) resolved to appoint the Petitioner as the Returning Officer for conducting the forthcoming JTA Executive Committee Elections. On 07.11.2022, the Registrar of the Respondent University issued a show cause notice to the Petitioner for accepting the position of RO to conduct the JTA elections without taking prior approval from the Respondent. Petitioner duly replied to the notice stating that there was no requirement for taking prior permission as that was the past norm and practice in the University and also clarified that she had no intention to by pass the Competent Authority. However, the impugned order was issued by the Respondent suspending her from the University and also initiating a disciplinary inquiry.

3. It is contended on behalf of the Petitioner that clause 5 of the Service Agreement between the parties, puts an embargo on the teacher from undertaking any trade or business or any private tuition or work to which an emolument or honorarium is attached, without the permission of the Vice Chancellor of the University. Being appointed as a Returning Officer of a voluntary association does not fall under the said embargo as it involves no financial benefits. The only other Regulation is Regulation 17(IV)(ii) of the UGC Regulations, 2018 which refrains from undertaking any employment or commitment which is likely to interfere with professional responsibility. Plain reading of all these provisions show that they are inapplicable to the present case where the Petitioner has only taken up the responsibility of conducting elections of the JTA as a Returning Officer. Therefore, there is total non-application of mind in issuing the suspension order and initiating the disciplinary inquiry. It is also urged on behalf of the

Petitioner that her husband is a person with 90% physical disability and is also suffering from Quadriplegia and Petitioner is the sole bread earner of the family.

4. Mr. Prithish Sabharwal, learned counsel for the Respondent appearing on advance copy of the writ petition, at the outset, submits that under Section 31 of the Jamia Millia Islamia Act, 1988, there is a remedy of filing an appeal to the Executive Council, which the Petitioner has already invoked and the appeal is pending. Thus, the submission is that the present writ petition is pre-mature. Section 31 reads as follows:

“31. Every employee or student of the University shall, notwithstanding anything contained in this Act, have a right to appeal within such time as may be prescribed by the Statutes, to the Majlis-i-Muntazimah (Executive Council), against the University and thereupon the Majlis-i-Muntazimah (Executive Council) may confirm, modify or reverse the decision appealed against.”

5. Having heard the learned counsels for the parties, this Court agrees with the contention of the Respondent that the writ petition is premature in view of the pendency of the appeal filed by the Petitioner before the Executive Council. However, considering that the Petitioner has been placed under suspension it would be appropriate to direct that the meeting of the Executive Council be convened expeditiously and a decision be taken on the appeal filed by the Petitioner within a period of four weeks from today.

6. Needless to state that the decision taken by the Executive Council shall be communicated to the Petitioner within a period of two days from the date of the decision.

7. It will be open to the Petitioner to take recourse to the remedies available in law, if any, grievance survives thereafter.

Neutral Citation Number: 2022/DHC/005762

8. Writ petition stands disposed of in the aforesaid terms, along with the pending application.

JYOTI SINGH, J

DECEMBER 20, 2022/rk/shivam

