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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Decision: 22nd May, 2023
+ **W.P.(C) 6732/2023 & CM APPL. 27280/2023**
ATUL KUMAR GARG Petitioner
Through: Mr. Manoj Kumar Garg, Advocate
versus

UNION OF INDIA THROUGH SECRETARY MINISTRY OF
CORPORATE AFFAIRS & ANR. Respondents
Through: Mr. Balbir Singh, ASG, Sr.
Advocate with Mr. Naman Tandon,
Advocates for R-1&2/ CCI (M-
9810811180)
Ms. Nidhi Raman, CGSC with Mr.
Zubin Singh Adv

CORAM:
JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J.(Oral)

1. This hearing has been done through hybrid mode.
2. The Petitioner - Mr. Atul Kumar Garg who is a retired judicial officer has filed the present writ petition seeking the following prayers:

“i) Issue a writ of mandamus any other writ, order or directions to be issued to the Respondent No.1 acting through its selection panel constituted under Section 9 of the Competition Act, 2002 to disclose the reason for arising the necessity for issuance of fresh advertisement for the same post though the selection process was almost completed after the selection committee has interacted 48 candidates on 09.10.2022 for the post of Chairperson vide vacancy circular dated 26.07.2022 and subsequent circular dated 23.02.2023; and/or
ii) Issue an order or direction to the Respondent No. 1 not to appoint the chairperson of Competition

*Commission of India till the Petitioner be called for an interaction with the Selection Committee; and/or
iii) pass such other order or orders as may be deemed fit and appropriate under the facts and circumstances of the case.”*

3. Mr. Garg, Id. Counsel at the outset submits that he does not wish to press prayer nos. (ii) and (iii). Insofar as prayer no. (i) is concerned, his submission is that in response to a vacancy circular dated 26th July, 2022, he had filed his application for being considered for the post of the Chairperson at the Competition Commission of India (hereinafter ‘CCI’). Post this vacancy circular which was issued, a further extension notice was issued on 23rd February, 2023 which stated as under:

“EXTENSION NOTICE
FILLING UP THE POST OF CHAIRPERSON,
COMPETITION COMMISSION OF INDIA-
EXTENSION OF DATE UPTO 27TH MARCH 2023
The enclosed advertisement dated 23.02.2023 for the post of Chairperson, Competition Commission of India may kindly be referred to. The last date for receipt of application has been extended up to 27th March 2023. The candidates who had applied earlier in response to the previous advertisement/vacancy circular dated 26th July 2022 need not apply.”

4. He submits that till date, he did not receive any communication containing the reasons for rejection of his candidature or the status of his interview which was conducted by the Selection Committee.

5. It is further submitted by Id. Counsel that it is only upon seeing in the public domain that a candidate has actually been chosen for the post of Chairperson of CCI, that he came to know of the same. Reliance is placed upon the RTI reply given to his wife in which it has been clearly stated that

the selection process is underway and hence the disclosure of the notings would not be possible.

6. He further submits that an RTI application was also filed by the Petitioner. However, no reply was received to the same.

7. Mr. Balbir Singh, Id. ASG submits that the selection committee in terms of the prescribed procedure is headed by a sitting Supreme Court Judge. The committee had initially received applications from 49 candidates in the first round when the vacancy circular was published. The applications of the said candidates were considered and a panel of two names was shortlisted. However, in terms of the extension notice, fresh applications were also called for and in the second round, the committee received the names of 33 candidates, out of which, a panel of three names was finalized.

8. The said panel was then sent to the Appointment Committee of the Cabinet ('ACC'), out of which the appointment of Ms. Ravneet Kaur, an IAS officer, has been finalized and the appointment orders have also been issued.

9. He further places before the court the RTI application and the reply which has been given to the Petitioner. Copies of the same have been handed over to the Petitioner.

10. As per Mr. Balbir Singh, in view of the fact that the Petitioner's candidature was already considered in the first round, no grievance can be raised about the fact that in the extension notice the Petitioner was not called for once again.

11. Heard. As per the submissions made today, it is clear to the Court that the appointment of the Chairperson of the CCI has already been notified. Moreover, the Petitioner being one of the candidates who applied and was

also interviewed, cannot claim a right to be appointed. The Selection Committee had a large pool of candidates to consider and has short-listed the panel which was finally sent to the ACC. Clearly, in the first round and in the second round, the selection committee has finalized the names of the individuals and the Petitioner's candidature has not been considered favourably by the selection committee. The prescribed procedure having been followed, the same does not warrant any interference.

12. The only outstanding grievance is that the reasons for rejection of the Petitioner's candidature have not been given and the reply to the RTI application has not been given. The reply to the RTI application is stated to have been given and the same has also been handed over today.

13. In view of this position and the fact that the selection process has now attained finality and the appointment orders have been issued, this Court is not inclined to entertain the present writ petition.

14. Insofar as the reply to the Petitioner's RTI application is concerned, the remedies of the Petitioner are left open to be availed of in accordance with law.

15. The petition is disposed of in these terms. All pending applications are also disposed of.

16. Next date of hearing stands cancelled.

PRATHIBA M. SINGH
JUDGE

MAY 22, 2023

Rahul/RP