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

+ **W.P.(C) 12866/2024**

DR SANA TASLEEM

.....Petitioner

Through: Mr. Akshat Vachher, Mr. Jasvinder Choudhary and Mr. Amit Kumar, Advocates.

versus

UNIVERSITY OF DELHI & ORS.

.....Respondents

Through: Mr. Santosh Kumar and Mr. Devansh Malhotra, Advocates for Respondents No.1 & 3/DU.

Mr. Mohinder J.S. Rupal and Mr. Hardik Rupal, Advocates for Respondent No.2/ PGDAV College (Eve.).

Mr. Puneet Yadav, Senior Panel Counsel for Respondent No.5/UOI.

Mr. Rajeev Saxena, Ms. Megha Saxena and Ms.Shreya Bhatnagar, Advocates for Respondent No.7.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

13.09.2024

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CM APPL. 53695/2024

1. Exemption allowed, subject to all just exceptions.
2. Application stands disposed of.

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3. This writ petition has been preferred on behalf of the Petitioner under Articles 226 and 227 of the Constitution of India seeking the following reliefs:



“(a) issue a writ, order or direction in the nature of mandamus or any other appropriate writ directing the Respondent No. 1 & 2 to cancel the appointment of Mrs. Nisha Sengar, Respondent No. 7 from the post of Assistant Professor in the faculty of Political Science in PGDAV College (Evening);

(b) issue a writ, order or direction in the nature of mandamus or any other appropriate writ directing the Respondent No. 2 to advertise the post for a fresh selection for the post of Assistant Professor in PGDAV College (Evening) a constituent unit of Respondent No. 1;

(c) issue a writ, order or direction in the nature of mandamus or any other appropriate writ and summon the entire records with regard to selection process which is available with the Respondent No. 2;

(d) issue a writ, order or direction inter-alia directing the Respondent No. 1 & 2 to decide the Representation dated 21.05.2024 of the Petitioner forthwith.”

4. It is the case of the Petitioner, as averred in the writ petition, that she possesses M.A. degree in Political Science as well as a Ph.D. degree and belongs to unreserved category. Petitioner rendered service as an Assistant Professor in the Faculty of Political Science in Respondent No.2/PGDAV College (Evening) (hereinafter referred to as ‘College’) from 08.08.2014 to 08.08.2023 on *ad-hoc* basis. Between 29.04.2020 to 08.08.2023, Petitioner was given one day break (without pay) nine times and thereafter, when the vacancy was declared as reserved vacancy, services of the Petitioner were discontinued from 08.08.2023. On 14.11.2023, College invited applications for appointment to the post of Assistant Professor in various subjects such as History, Mathematics and Political Science in Pay Level-10 and last date of receipt of the applications was 05.12.2023 or two weeks from the date of publication of the advertisement in the Employment News, whichever was later.

5. It is averred that Petitioner being a suitable candidate applied for the post of Assistant Professor in the Department of Political Science. Screening



Committee was constituted for the selection process, comprising of three members of which Teacher-in-Charge, Department of Political Science of the College was the Convenor. Total 937 candidates applied for the post and on 13.12.2023, Screening Committee shortlisted the eligible candidates. Thereafter, a Selection Committee of 07 members was constituted for selection of the candidates on the basis of an interview. Notice/intimation was sent to the candidates, who were shortlisted for interviews informing them that the interviews will be held on 7th, 8th and 9th of March, 2024. The Selection Committee conducted interviews on the said three dates and after the interviews were concluded, the Selection Committee, according to the Petitioner, unanimously decided that none of the candidates were found suitable for the post of Assistant Professor in the Department of Political Science. The said report was signed by all members of the Selection Committee but this report was neither affixed on the Notice Board of the College nor uploaded on the website of the College.

6. It is further averred that despite the said decision of the Selection Committee unanimously declaring that none of the candidates were found suitable, surprisingly one Mrs. Nisha Sengar/Respondent No.7 was recommended for appointment as Assistant Professor in the Department of Political Science in the College. According to the Petitioner, this was illegal and contrary to the Selection Committee's decision and even otherwise, on a comparative merit, Petitioner was better suited for the post, both in terms of experience and qualification, compared to Respondent No.7. Petitioner urges that after the interviews were over and all members had left the venue, including two of the members returning back to their respective hometowns in Hyderabad and Bihar respectively, it appears that pressure and influence



was exerted on behalf of Respondent No.7 and her case was recommended for appointment, which is an unjust, unfair and unethical practice. It is in this backdrop that Petitioner seeks cancellation of appointment of Respondent No.7 and a direction to re-advertise the post so that fair and transparent process can be adopted for appointment to the post of Assistant Professor in the Department of Political Science in the College.

7. Issue notice.

8. Mr. Santosh Kumar, learned counsel accepts notice on behalf of Respondents No.1 and 3; Mr. Mohinder J.S. Rupal, learned counsel accepts notice on behalf of Respondent No.2; Mr. Puneet Yadav, learned Senior Panel Counsel accepts notice on behalf of Respondent No.5; and Mr. Rajeev Saxena, learned counsel accepts notice on behalf of Respondent No.7.

9. At the outset, Mr. Rupal submits that the allegations levelled in the present petition are absolutely false and the petition is motivated. He also submits that the issues raised in the present writ petition are both contentious and highly disputed and this Court cannot be called upon to adjudicate these issues, exercising power of judicial review under Article 226 of the Constitution of India. Mr. Santosh Kumar supports the submissions made by Mr. Rupal.

10. I have heard the respective counsels and looked into the concerns and issues raised by the Petitioner in the present writ petition.

11. There is no cavil on the legal proposition that Courts generally do not interfere in matters of appointments particularly in the academic field and due regard is to be shown to the opinion of the experts constituting the Selection Committees and what is generally followed by the Courts is a hands-off approach. It is, however, equally undisputed that in matters of



appointments, interference is permitted on limited grounds where the Court finds illegality or patent material irregularity in the decision making process or where the selection or non-selection is vitiated by proved *mala fides* etc.

12. The Supreme Court in ***Union Public Service Commission v. M. Sathiya Priya and Others, (2018) 15 SCC 796***, has held that when Selection Committees comprising of experts in the field make selections, it is not for the Courts to step into their shoes and examine the matter as an appellate authority except in cases where process of assessment is vitiated on grounds of bias, *mala fides* or arbitrariness. It was also observed that it cannot be said that expert body's opinion is not subject to judicial review in all circumstances as in our Constitutional Scheme, decision of Selection Committee cannot be said to be final and absolute and any other view will have a dangerous consequence. The Supreme Court observed that one must remind oneself of the famous words of Lord Acton '*Power tends to corrupt, and absolute power corrupts absolutely*'. Therefore, it is not as if the selection process is totally insulated or immune from interference by the Courts and if in a given case the Court finds that there is arbitrariness or *mala fides* or bias, interference may be warranted.

13. In the present case, Petitioner has categorically averred that the Selection Committee comprising of seven members had conducted interviews on three dates i.e. 7th, 8th and 9th of March, 2024 and returned a finding that none of the candidates were found suitable for the post of Assistant Professor in the Department of Political Science and yet Respondent No.7 was declared selected after some of the members who had travelled from outside Delhi had returned back to their respective States. Petitioner also pleads that new Minutes of meeting were drawn up on



10.03.2024, which was a Sunday and soon thereafter, the Petitioner had sent a representation to Respondents No.1, 2, 3 and 5 to conduct an inquiry into the issue so that the truth surfaces, but no action has been taken.

14. In my view, the matter does require consideration and therefore, at this stage, without entering into or commenting on the merits of the contentions of either parties, it would be appropriate to dispose of the writ petition requesting the Vice-Chancellor of the University of Delhi to treat this writ petition as a representation by the Petitioner and look into the matter independently, after calling for the records of the selection in question to the post of Assistant Professor in Department of Political Science, PGDAV College (Evening). The decision will be taken by the Vice-Chancellor within a period of 06 weeks from today and a reasoned and speaking order shall be passed, which shall be communicated to the Petitioner within a week from the date of the decision. Petitioner is at liberty to take recourse to legal remedies, in case of any surviving grievance. Rights and contentions of the respective parties are left open.

JYOTI SINGH, J

SEPTEMBER 13, 2024

B.S. Rohella/kks