

\$~16 (2021)

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

+ **LPA 210/2021 & CM APPL. Nos.22927/2021 & 22929/2021**

M EHTESHAM UL HAQUEAppellant
Through: Mr. Mobashshir Sarwar, Adv.

versus

UNION OF INDIA DEPARTMENT OF HIGHER EDUCATION
MINISTRY OF HUMAN RESOURCE DEPARTMENT THROUGH
ITS SECRETARY & ORS.Respondents

Through: Mr. Kirtiman Singh CGSC with Mr.
Wazie Ali Noor Adv. for R-1/UOI.
Mr. Vikramjeet Banarjee, ASG with
Mr. Fuzail Ahmad Ayyubi, Standing
Counsel with Ms. Shruti Agarwal,
Mr. Pritish Sabhrawal, Mr. Ibad
Mushtaq, Ms. Akanksha Rai and Mr.
Aamir, Adv. for R-2 & 5.
Mr. Apoorv Kurup and Ms. Nidhi
Mittal, Adv. for R-4.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE TALWANT SINGH

ORDER

% **30.07.2021**

[Court hearing convened via video-conferencing on account of COVID-19]

CM APPL. No.22928/2021

1. Allowed, subject to just exceptions.

CM APPL. No.22929/2021 [*Application filed on behalf of the appellant seeking condonation of delay*]

2. This is an application seeking condonation of delay in refiling the instant appeal. The period of delay involved is two months and twenty-nine days.

2.1. The averment made in the application is that the delay occurred on account of appellant being afflicted with the coronavirus disease.

2.2. Given the foregoing, the delay in refiling the appeal is condoned. The application is, accordingly, disposed of.

LPA 210/2021 & CM APPL. No.22927/2021 [Application filed on behalf of the appellant seeking stay on the operation of the impugned order]

3. This appeal is directed against the judgment of the learned Single Judge dated 05.03.2021, passed in W.P.(C.) 952/2020.

4. Mr. Mobashshir Sarwar, who appears on behalf of the appellant, has broadly raised the following issues, based on which, he contends that the judgment of the learned Single Judge requires interference by this Court.

(i). First, the Search-cum-Selection Committee had to comprise persons of eminence in the sphere of higher education. According to Mr. Sarwar, Hon'ble Mr. Justice (Retd.) M.S.A. Siddiqui did not fit the requirement of the Regulations framed, in this behalf, by University Grants Commission ('UGC') in 2018. In particular, Mr. Sarwar places reliance on Regulation 7.3 of the UGC Regulations, 2018.

(ii). Second, the Search-cum-Selection Committee was required to give reasons for selecting respondent no. 2 i.e. Dr. Najma Akhtar as Vice-Chancellor of the Jamia Millia Islamia University (JMI). In this context, our attention has been drawn to Regulation 7.3 (ii) of the UGC Regulations, 2018.

(iii). Third, the Ministry of Human Resource Development ('MHRD') had no role to play in recommending the persons, to be included in the Search-cum-Selection Committee. According to Mr. Sarwar, MHRD had

recommended the name of Professor D.P. Singh, Chairman, UGC along with the name of another person, i.e., Professor (Retd.) K.K. Aggarwal, former Vice-Chancellor, Guru Gobind Singh Indraprastha University, Delhi (GGSIPU) for consideration of the Visitor of JMI to enable him to constitute the Search-cum-Selection Committee.

(iv). Lastly, there was an adverse vigilance report submitted by the Central Vigilance Commission (CVC) qua respondent no.2/Dr. Najma Akhtar which was not taken into consideration by the Search-cum-Selection Committee. In this context, reference is made to the communication dated 08.03.2020, which was sent by Professor Ramakrishna Ramaswamy, i.e., one of the members of the Search-cum-Selection Committee. (See page 344 of the paper book.)

5. Mr. Vikramjeet Banerjee, learned Additional Solicitor General, who appears on behalf of respondent nos. 2 and 5, says that, Justice (Retd.) Siddiqui was eminently fit to be the part of the Search-cum-Selection Committee, in view of his previous experience as the Chairperson of the National Commission for Minority Educational Institution.

5.1. The emphasis of Mr. Banerjee is on the expression “*in the sphere of higher education*”. According to him, this expression would take within its fold, the past experience, of Justice (Retd.) Siddiqui.

5.2. Insofar as the other submission of the appellant is concerned, i.e., that no reasons have been provided, according to Mr. Banerjee, the said issue has been adequately dealt with by the learned Single Judge in paragraphs 54 and 55 of the impugned judgement.

5.3. It is Mr. Banerjee's contention that, reasons are not required to be given by the Search-cum-Selection Committee for recommending a panel consisting of suitable names and that the recommendation would suffice by itself.

5.4. As regards the contention that MHRD had no role to play in recommending the names of persons, who could possibly form a part of the Search-cum-Selection Committee, it is Mr. Banerjee's contention that, it was merely a recommendation to the Visitor i.e. The President of India. The UGC Regulations, 2018 do not bar receipt of inputs by the Visitor.

6. As regards the last contention made on behalf of the appellant, which concerns revision of the earlier advice of the CVC concerning respondent no.2, it is Mr. Banerjee's contention that, such power is available to the CVC under the CVC manual. In this behalf, Mr. Banerjee has relied upon clause 1.6.4 of the said manual, which reads as follows:

*“1.6.4 **Reconsideration of advice:** Commission may be consulted for reconsideration of its 1st stage or 2nd stage advice. The Commission entertains the reconsideration proposal only for one time at each stage **and strictly when there are new facts which have not been considered by the Commission earlier.**”*

[Emphasis is ours]

6.1. As regards the aforesaid aspect, we would like to look at the original record of the CVC, as to what were the “new facts” that were brought to its notice, which led to reconsideration of the earlier advice, as regards respondent no. 2/Dr. Najma Akhtar, in the first instance.

6.2. CVC is arrayed as respondent no. 3 presently. Respondent no.3/CVC will place the original record concerning respondent no. 2/ Dr. Najma Akhtar before us.

7. Issue notice to the respondents.

7.1. Notice on behalf of respondent no. 1 is accepted by Mr. Kirtiman Singh. Insofar as respondent nos. 2 and 5 are concerned, notice is accepted by Mr. Fuzail Ayyubi, while Ms. Nidhi Mittal accepts notice on behalf of respondent no.4.

7.2. Insofar as respondent no.3/CVC is concerned, notice shall issue via all permissible modes including e-mail. The order passed today shall accompany the notice.

7.3. Respondent no. 3/CVC will place the record before us, as noticed above, prior to the next date of hearing.

8. List the matter on 22.09.2021.

RAJIV SHAKDHER, J

TALWANT SINGH, J

JULY 30, 2021

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