

**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A. No.2193/2019

Friday, this the 26th day of July 2019

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)**

1. Pritika, aged 32 years,
Post Primary Teacher, Group B
d/o Sh. Ajay Pal
r/o H.No.B-216, Gali No.14
Gokal Pur, Village Dayalpur
Delhi – 110 094
2. Neha Rana, aged 29 years
Post Primary teacher, Group B
d/o late Sh. Om Prakash Rana
r/o 385, H M House, To Umar Lal House
Bijwasan, Delhi – 110 061
3. Shivani Tanwar, age 24 years
Post Primary Teacher, Group B
d/o Sh. Sunil Kumar Tanwar
r/o WZ-1533, Nangal Raya
Delhi – 110 046
4. Nisha, aged 32 years
Post Primary Teacher
Group B,
d/o Sh. Balraj
r/o 75/A, Goelakhurd
South West Delhi, Delhi – 110 071
5. Savita, age 30 years
Post Primary Teacher, Group B
d/o Sh. Akash
r/o H.No.B-69, Gali No.8
Saini Dharamshala, Shalimar Village
Shalimar Bagh, Delhi – 110 088
6. Anu Grewal, age 26 years
Post Primary Teacher, Group B
r/o H.No.2 Block O
New Roshanpura, Najafgarh
Delhi – 110 043

7. Yogesh Mann, aged 23 years
Post Primary Teacher, Group B
s/o Sh. Krishan Mann
r/o H.No.483, Mann Pana
Near Jaat Choupal, Pehladpur Bangar
Delhi – 110 042
8. Amit Kumar, age 31 years
Post Primary Teacher, Group B
s/o Sh. Sukh Lal
r/o 197, Kumharo Wali Gali
Rampura, Delhi – 110 035

..Applicants

(Mr. Aditya Aggarwal, Mr. Ankit Mutreja and Mr. Amit Rana,
Advocates)

Versus

1. Delhi Subordinate Services Selection Board (DSSSB)
(Through the Chairman)
FC-18, Institutional Area,
Karkardooma, Delhi – 110 092
2. Revenue Department
SDM-1 (HQ) Revenue Department (HQ)
Govt. of NCT of Delhi
5 Sham Nath Marg
Delhi – 110 054
3. Municipal Corporation of Delhi
(Through Commissioner)
Dr. Shyama Prasad Mukherjee
Civic Centre,
Minto Road, Delhi – 110 002

..Respondents

(Mr. Sanjay Singh, Advocate for Mr. Arun Birbal, Advocate)

O R D E R (ORAL)

Justice L. Narasimha Reddy:

The Delhi Subordinate Services Selection Board (DSSSB),
the 1st respondent herein, issued Vacancy Notice/Advertisement
No.02/17 dated 07.08.2017, with a view to select the candidates
for appointment to various posts, including the post of Primary

Teacher, in Municipal Corporations of Delhi. The applicants submitted their applications for the post of Primary Teacher with Post Code 16/17. It is stated that the posts have been re-advertised in the year 2018 with Post Code 01/18. As many as 4366 posts were notified. The written test was conducted and results were declared. In the process of short-listing the candidates, the 1st respondent issued Result Notice No.774 dated 16.04.2019 in respect of OBC candidates (77).

2. The applicants initially filed W.P. (C) No.7147/2019 before the Hon'ble Delhi High Court, pleading that the respondents have not followed the prescribed procedure and that the criterion for selecting 77 candidates is not indicated. Their further plea was that when the posts earmarked for OBC are about 1200, there was no basis to restrict the selection only to 77 candidates. The applicants have also prayed for ordering judicial inquiry in the matter and a direction for appointing them as Primary Teacher. Through an order dated 05.07.2019, the Delhi High Court took the view that the case needs to be filed before this Tribunal. Accordingly, the present O.A. is filed.

3. The applicants contend that serious irregularities have taken place in the context of declaration of results of selection. According to them, many persons were selected though they did not fit into the criteria stipulated for certification as OBC (Delhi), and on account of the same, the genuine candidates,

like them, are adversely affected. Reference is also made to an order passed by the Information Commissioner directing publication of the wait list.

4. We heard Mr. Aditya Aggarwal, learned counsel for applicants and Mr. Sanjay Singh for Mr. Arun Birbal, learned counsel for respondents, at length, at the stage of admission.

5. The prayers in the O.A. read:

“(a) Allow the present OA and may pass an order / direction to declare the concerned candidates who were selected on the basis of OBC Delhi Caste Certificate procured on the basis of forged and fabricated documents in order to comply with the guidelines issued by the respondent no.2 (i.e. Revenue Department) as ineligible for the concerned post. (Refer Annexure-5).

(b) May pass the direction/order for judicial inquiry for ascertaining / verifying the documents submitted by the candidates who applied for the said post under the OBC Category before the respondent no.2 (i.e. Revenue Department) for procuring the OBC Delhi Caste Certificate.

(c) May direct the respondents to appoint the applicants on the post of MCD Primary Teacher vacancies (Post code-16/17 & 01/18).

(d) May direct the respondent no.1 to further extend the validity of the wait list / panel for such period as may be necessary.

(e) Allow the present application with cost, in favour of the applicant.”

6. From the perusal of prayer (a) of the O.A., it becomes clear that the applicants want the Tribunal to declare the selection of the candidates, who were selected on the basis of OBC (Delhi) caste certificate, as ineligible for the concerned

post. The reason mentioned therefor is that the caste certificates were forged and fabricated.

7. Normally, it is only when a candidate is appointed, that the appointment can be challenged by an unsuccessful candidate on the available grounds, such as lack of educational qualifications or social status for the appointed candidates. There again, it is fundamental that the candidate, whose appointment is sought to be challenged, is made party. Challenge to the selection of the candidate, even before any appointment takes place, is something unknown to us.

8. Assuming that it is otherwise permissible, it is fundamental that the candidate, whose selection is challenged or doubted, is made party to the proceedings. Not even a single selected candidate, whom the applicants want us to declare as ineligible, is impleaded.

9. The relief of declaration, as prayed for, can be granted, if only the certificates filed by the selected candidates are placed before us for scrutiny. Here again, the record is devoid of any such certificates. For these reasons, the prayer in paragraph (a) of this O.A. cannot be considered.

10. The prayer (b) of the O.A. is for ordering a judicial inquiry for ascertaining and verifying the documents submitted by the candidates, who applied for the post of Teacher under the OBC category. This is too specious a prayer. The verification of the

certificates is the function of the selecting agency. The inquiry is ordered by the Courts / Tribunals where a clear deviation and violation of law is noticed, that too, if the material before us is not adequate.

11. The prayer (c) is to direct the respondents to appoint the applicants as Primary Teacher. Even, according to them, the process is at the stage of selection. The applicants can be appointed, if only they are selected in accordance with the prescribed procedure, and no direction can be issued straightway to appoint them. Other prayers are almost incidental. Though reliance is placed upon certain precedents, we are of the view that it is not necessary to deal with them at this stage since we did not address the issue on merits.

12. We, therefore, dismiss the O.A. It is, however, making it clear that in case any of the applicants is not selected or appointed and they are of the view that the selection and appointment of some other candidates is not in accordance with law, it shall be open to them to pursue the remedies in accordance with law.

There shall be no order as to costs.

(Mohd. Jamshed) (Justice L. Narasimha Reddy)
Member (A) Chairman

July 26, 2019
/sunil/