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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.1310/2003

Thursday, this the 22nd day of May, 2003

Hon'ble Shri Justice V.S. Aggarwal, Chairman
Hon'ble Shri Govindan S. Tampi, Member (A)

Mrs. Mithilesh Swami, w/o Dr. J.P. Swami
r/o C-251, Minto Road, Complex, New Delhi-2
..Applicant
(By Advocate: Shri B.B. Raval)

Versus

1. State of NCT of Delhi through the
Education Secretary Old Sectt., Delhi
2. Director of Education, NCT of Delhi, Old
Sectt. Delhi
3. Mr. R.S. Khokar, Dy. Director of Education
Distt. East Delhi
4. Shri G.T. Jakarde, Asstt. Director of
Education Distt. East, Rani Garden, Delhi
5. Sh. R.P. Singh, Education Officer Zone-II
Distt. East, Delhi
6. UPSC Shahjahan Road, New Delhi
7. Secretary, NIOS, Kailash Colony, New Delhi
8. Secretary, Planning Commission, New Delhi
..Respondents

O R D E R (ORAL)

Shri Justice V.S. Aggarwal:

By virtue of the present application, the
applicant seeks the following reliefs:-

"a) The respondent No.1 or his
subordinate respondents may kindly be
restrained by an order passed by this
Hon'ble Tribunal from imposing any
penalty without proper enquiry;

b) The derogatory and defamatory remarks
endorsed by Respondent No.1 in
forwarding memoranda (Annexure A-8 & A-9)
of the applications of the petitioner for
higher posts be expunged, quashed and set
aside and in the alternative and damages
be awarded to the tune of Rs.10 lacs if
the candidature of the petitioner is
rejected by respondent No.7 or 8 due to
the aforesaid endorsement;

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c) Effective strictures be issued against respondent Nos.3, 4 and 5 for their involvement in conspiracy against the petitioner with the help of her subordinate employees specially Mrs. Santosh Singhla, Manorma Bhatnagar, Mrs. Devki Goyal and Mr. Deen Dayal, or, in the alternative, the respondent No.1 be directed to get the matter proved through a competent and disinterested officer into the official complaints [Annexure A-1 (Colly) and A-10] filed by the petitioner in the interest of academic and administrative discipline"

2. The provocation for the applicant to file the said application with the above-said reliefs is the letter of 26.3.2003 purported to have been written by the Administrative Officer to the Secretary, National Institute of Open Schooling, New Delhi and the subsequent letter of the same date to Under Secretary, Planning Commission, Yojana Bhawan. The language, by and large, is the same. The aforesaid letter dated 26.3.2003 reads:-

"I am directed to forward herewith an application in r/o Mithlesh Swami for the post of Director & Joint Director in National Institute of open schooling, New Delhi for taking further action in the matter at your end. An investigation on serious allegation of corruption, bribery or similar grave misconduct is in progress against her & as such in the event of her actual selection to the post in question she would not be released for taking up the appointment, if by that time chargesheet for imposition of penalty under CCS(CCA) Rules, 1965 or sanction for prosecution is issued or a chargesheet is filed in a court to prosecute her, or she is placed under suspension."

3. The applicant has joined as a Principal and according to the learned counsel, it is she who has been making the repeated complaints against others. No charge

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sheet has been issued to her and the above-said letter is stated to be written with ulterior motive.

4. At this stage, we need not dwell into the said controversy because as we have already reproduced above, the applicant seeks relief that the respondents should be restrained from imposing any penalty without proper inquiry. As yet, when no penalty has been imposed, it is pre-mature for this Tribunal to go into and dwell into this controversy.

5. It has further been claimed that the derogatory and defamatory remarks mentioned in the letter, referred to above, should be quashed. At this stage, as already pointed above and re-mentioned at the risk of re-petition, no departmental inquiry is pending. The Department when forwarding certain applications, had only informed that there is an investigation in progress and consequently, it would be improper in the absence of any departmental inquiry for this Tribunal to go into all these controversies.

6. Lastly, it is claimed that stricture may be passed against certain respondents for their involvement in conspiracy against the applicant. Once again, it is pre-mature at this stage. If an appropriate application and at appropriate stage it is found that any such act has been done, stricture may or may not be passed but such a relief cannot be granted.

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7. Resultantly, without going into any other pleas,
OA must fail and is accordingly dismissed in limine.

(Govindan S. Tampi)
Member (A)
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(V.S. Aggarwal)
Chairman