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BEFORE HON'BLE LOKAYUKTA
MR. JUSTICE MANMOHAN SARIN
COMPLAINT NO.C-668/LOK/2011

MS. Vindesh Vimal, Aggrieved Person

Vs.

Delhi Dispute Resolution Society (Regd.)

Re: In the matter of recruitment of Additional Directors in Delhi Dispute Resolution Society (Regd.)

ORDER

1. A communication dated 23.03.11 of Ms. Vindesh Vimal alleging irregularity, and injustice to candidates of scheduled caste, in appointments in Delhi Dispute Resolution Society (Regd.) (hereinafter called the Society) by the Department of Law, Justice & Legislative Affairs of Delhi, was received in this office. It is alleged that on 09.08.2010 the Department of Law, Justice & Legislative Affairs advertised for appointment of, inter-alia, nine posts of Additional Directors. She has applied for the said post and was fulfilling all the eligibility requirements. She also appeared in the interview on 07.09.10 but not was appointed for the said post. Information sought under RTI Act, 2005 revealed that six persons were appointed as Addl. Directors out of whom four were less qualified than her. She has also two years experience. She has not been selected probably because she belongs to scheduled caste and despite the fact that there was no such column in the application form, she has mentioned about her belonging to scheduled caste. The Department has not selected any scheduled caste candidate which was against the Govt. rules and in violation of the reservation policy. She has complained to the Chief Minister, Delhi and senior officers of Department of Law, Justice and Legislative Affairs but neither any inquiry into the matter was made nor she was selected.
2. Comments on the complaint were sought from the Chief Secretary and the Pr. Secretary, Department of Law, Justice and Legislative Affairs, vide this office letter dated 28.03.11. Pr. Secretary, Department of Law, Justice and Legislative Affairs vide his letter dated 02.06.11 forwarded the comments dated 09.05.11 of Secretary / Director (ADR). It is

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stated that the Society is a Non Governmental body which has been created under the Department of Law, Justice and Legislative Affairs. It is a joint venture between Delhi Govt. and High Court of Delhi, which has been established with the objective of setting up of mediation centres all over Delhi. The society is governed by the Memorandum of Association.

3. It is further stated that nine posts of Additional Directors, alongwith other posts, were advertised. The eligibility criteria for the post of Addl. Director was as under :-

“The candidates should be Graduate in any discipline, having managerial skills and knowledge in Psychology,
Desirable: Degree in Law and having experience in Mediation”

Two hundred & thirteen applications were received and interviews were held on 16th & 17th of September, 2010 and 15th October, 2010 and thereafter selections were made. The selections were made in an objective manner taking into consideration their performance, qualification, experience, communication skill, personality, leadership skills and administration skills. The appointments were made on contract basis for six months. Reservation policy was not applicable to the appointments which are made purely on contractual basis and that too in a society.

4. In order to give an opportunity to the aggrieved person to substantiate her allegations, she was requested to visit this office on 12.07.11. Pr. Secretary, Department of Law, Justice and Legislative Affairs was also requested to depute his representative to assist in the matter. On 12.07.11, neither the aggrieved person nor anybody on her behalf appeared . In the interest of justice, another opportunity was given to the aggrieved person to appear before this forum on 04.08.11. Ms. Neena Krishan Bansal, Secretary/Director (ADR), who was present was requested to send a copy of bio-data of the aggrieved person. The same was sent vide her letter dated 29.07.11.

5. I have heard both the parties on 04.08.11. The main grievance of the aggrieved person is that despite the fact that she has better qualification than four selected candidates, she

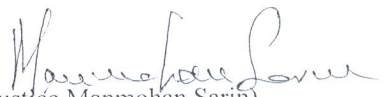
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was not selected and that reservation policy of the Govt. has not been followed in this case. She stated that in State of Haryana, reservation has been made for scheduled castes and scheduled tribe in the case of casual labour also. On the other hand Ms. Neena Krishna Bansal, Secretary / Director (ADR) stated that the post which had been advertised were on contractual basis for a term of six months, extendable upto three years. She further stated that to the best of her knowledge, there is no policy of Govt. of NCT of Delhi to have any reservation for Scheduled Caste candidates for contractual appointments.

6. It may be mentioned that this forum can inquire into an "allegation" made against any "public functionary", as defined in Section 2 (b) and 2 (m) respectively of the Delhi Lokayukta and Upalokayukta Act, 1995. Any irregularity or erroneous decision in the official functioning, per-se, does not fall within the jurisdiction of Lokayukta. Ms. Vindesh Vimal, the aggrieved person has neither in her communication dated 23.03.11 nor during the course of submissions levelled any "allegation" against any "public functionary" in respect of the society. It has not been shown that selection or decision making process was vitiated by any illegality or irregularity.
7. Even otherwise it has not been shown that there is any reservation policy for appointments made on contract basis. Article 16 (4) of the Constitution of India enables the State to make provision for the reservation of appointments or posts in favour of any backward class of citizen which, in the opinion of the State, is not adequately represented in the services under the State. There is no constitutional duty imposed on the Govt. to make such a reservation. It only confers a discretionary power on the State. Generally reservations have been made for appointment to civil posts. Department of Personnel & Training, Ministry of Personnel, Public Grievances & Pension has vide its OM No. 36011/6/2009-Estt.(Res.) dated 23.12.09 advised all the Ministries / Departments to ensure that suitable provisions of reservation for scheduled caste, scheduled tribes and OBCs are made in the statutes / articles of association of all the autonomous bodies / institutions which are receiving grant in aid from the Government. However, no such policy for reservation for scheduled castes / scheduled tribes, for contract appointments,

either in the Govt. Ministries / Departments or autonomous bodies / institutions has been brought to the notice of this forum and it can be presumed that none exists. It is not the case of aggrieved person that any Government policy for reservation in contract appointments for Govt. Ministries / Departments exists or provision for reservation in contract appointments has been made in the Article of Association of the Society. When there is no policy, the question of its implementation does not arise. The post of Addl. Director has not been filled on regular basis by direct recruitment or promotion. It is merely a contract appointment for a short period. Therefore, in the absence of any reservation policy, applicable to contract appointment, no reservation could have been made by the society in the appointment of Addl. Directors.

8. During the course of submissions on 04.08.11, Ms. Neena Krishna Bansal stated that respondent society could consider the case of the complainant in future if they decide to fill up the remaining vacancies as per their requirement. Complainant also stated that she would endeavour to seek some special training and do course in mediation, which would give her added experience and preference for the job, as required.
9. In view of the aforesaid, there is no ground to initiate any inquiry. The communication dated 23.03.11 received from the aggrieved person may be filed.


(Justice Manmohan Sarin)

Lokayukta

Date: 10-08-2011