

**(2011) 07 DEL CK 0458**

**Delhi High Court**

**Case No:** Writ Petition (C) 6202 of 2010, CM No. 12269 of 2010 (for direction) and CM No. 14509 of 2010 (for directions)

Akhilesh Das Gupta

APPELLANT

Vs

Union of India (UOI) and Another

RESPONDENT

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**Date of Decision:** July 11, 2011

**Hon'ble Judges:** Rajiv Sahai Endlaw, J

**Bench:** Single Bench

**Advocate:** J.P. Singh, Alok Saran and Manoj Saxena, for the Appellant; Sachin Datta and Gayatri Verma for R-1 UOI and Mrinalini Sen Gupta, for R-2, for the Respondent

**Final Decision:** Dismissed

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**Judgement**

@JUDGMENTTAG-ORDER

Rajiv Sahai Endlaw, J.

The Petitioner, in the year 2003 being a member of Rajya Sabha, was on the recommendation of the Respondent No. 1 granted tenure membership of the Respondent No. 2 Delhi Golf Club Ltd. This writ petition has been filed impugning the order dated 6th October, 2009 of the Respondent No. 1 directing the Respondent No. 2 Club to delete the name of the Petitioner as a member, owing to the Petitioner having ceased to be a Member of the Rajya Sabha. The contention of Petitioner was/is that as on 6th October, 2009 he was still a member of Rajya Sabha and the order dated 6th October, 2009 had been made under the mistaken belief that the Petitioner was not a Member of Parliament.

2. Notice of the writ petition was issued and on the statement of the Petitioner that there existed three vacancies for tenure membership, vide order dated 14th September, 2010 it was directed that one such vacancy be kept unfilled awaiting the decision of the writ petition. The said interim order continues till date.

3. The Respondent No. 1 has filed counter affidavit stating that the tenure membership granted to the Petitioner in the year 2003 was till the time he

continued to be a member of Parliament; that the Petitioner resigned from the post of Member Parliament (Rajya Sabha) on 8th May, 2008 but failed to surrender his tenure membership and continued to enjoy the membership of the Respondent No. 2 Club; that though the Petitioner was re-elected in November, 2008 but he was required to apply again for tenure membership and which he failed to do; that the Petitioner upon re-election to the Rajya Sabha could not continue the tenure membership earlier granted to him; that upon the Petitioner being re-elected, his name would be considered as per the seniority in the applicants therefore.

4. The Petitioner in his rejoinder has not controverted the factum of his resignation and re-election.

5. The Respondent No. 1 in its counter affidavit has also explained that the name of the Petitioner at the time of applying for membership in 2003 was disclosed as Dr. Akhilesh Das. The Petitioner upon re-election was calling himself Dr. Akhilesh Das Gupta and this inconsistency, resulted in the reason as given in the order dated 6th October, 2009. The Respondent No. 2 Club has also in its affidavit filed in pursuance to the directions has disclosed that the name of the Petitioner entered was as Dr. Akhilesh Das and he has ceased to be a member with effect from 6th October, 2009.

6. The senior counsel for the Petitioner has contended that the Petitioner upon re-election has again applied for tenure membership of the Respondent No. 2 Club and the name of the Petitioner be considered against any vacancy for tenure membership. It is contended that since one vacancy has already been reserved as per orders in this writ petition, the name of the Petitioner be considered as per seniority against the same.

7. The counsel for the Respondent No. 1 has contended that the Petitioner having not succeeded in the writ petition cannot have any benefit of the interim order obtained therein and has assured that the name of the Petitioner will remain on the list of applicants for tenure membership and shall be considered as and when vacancy occurs therein as per seniority.

8. There is merit in the contention of the counsel for the Respondent No. 1. With the disposal of the writ petition, the interim order shall disappear and no advantage can be taken thereof.

9. The writ petition is therefore dismissed recording that the application made by the Petitioner upon his re-election, for tenure membership of the Respondent No. 2 Club shall be considered by the Respondent No. 1 as per its Rules.

No order as to costs.