

Ms. Vinita Vs University of Delhi and Another

Court: Delhi High Court

Date of Decision: May 10, 2011

Hon'ble Judges: Rajiv Sahai Endlaw, J

Bench: Single Bench

Advocate: G.K. Kaushik, for the Appellant; Maninder Acharya, for R-1, Jatan Singh and Ashish Kumar Srivastava for R-2 UOI, for the Respondent

Final Decision: Dismissed

Judgement

Rajiv Sahai Endlaw, J.

The Petitioner working as Section Officer in the Department of Sociology of the University of Delhi had applied

through the route of Direct Recruitment for the post of Assistant Registrar/Assistant Controller of Examinations/Administrative Officer for which

applications were invited by the Respondent University and appeared in the examination held on 30th October, 2010 but was not found

successful. This writ petition has been filed seeking relief of

(i) re-evaluation of the answer sheets from an independent body/authority

(ii) setting aside the change of selection criteria adopted qua candidates seeking appointment through the route of Departmental Promotion or for

direction for the same criteria to be applied for Direct Recruitment also, and

(iii) fixing the maximum marks for interview not exceeding 20% of the total marks instead of 35% for direct recruitment. The Petitioner also seeks

the relief of restraining the declaration of the further result of interview and of setting aside of the entire selection process.

2. As far as the relief of re-evaluation of answer sheet is concerned, the Petitioner cites past instances of alleged discrimination against her and with

respect to which the writ petitions earlier filed by the Petitioner are stated to be still pending.

3. The Division Bench of this Court recently in judgment dated 25th August, 2010 in LPA No. 595/2010 titled Rohit Kumar v. Delhi Subordinate

Services Selection Board has reiterated that no re-evaluation can be ordered, in the absence of any rule therefore. No rule has been shown in the

present case. The Petitioner even otherwise has not been able to establish any possibility of the examiner of the answer books written by the

Petitioner being prejudicial to her or being able to know the identity of the Petitioner. On enquiry, it is informed that about 300 candidates had

appeared in the examination.

4. The second ground urged by the counsel for the Petitioner is that besides inviting applications for appointments to the said posts through Direct

Recruitment, applications for appointments through departmental promotion were also invited and the written test held was common for both

routes. The counsel however fairly admits that the Petitioner was not eligible for appointment through the process of departmental promotion and

accordingly had not applied for the same. The allegation is that the selection criteria for promotion through the route of departmental promotion,

has been changed after the selection process had begun.

5. The Petitioner having not applied for promotion through the departmental process has no locus to challenge the change even if any in selection

process therein. Though, the counsel for the Petitioner had sought to urge that ultimately the Petitioner would be affected but admits that the quota

of the posts for the departmental promotion is distinct and separate from the quota for direct recruitment. The Petitioner is thus not found to have

any locus to challenge the change even if any in the selection process through departmental promotion for which the Petitioner had not participated.

6. As far as the last ground urged by the Petitioner of the Respondent University allocating 35% marks for interview is concerned, the Supreme

Court in *Lila Dhar Vs. State of Rajasthan and Others*, held that the ratio of decisions qua percentage of marks for interview in educational matters

cannot be applied in case of services to which recruitment has necessarily to be made from persons of mature personality and that in services,

interview test may be the only way to differentiate between all those meeting the basic qualification. Be that as it may, the counsel for the

Respondent University appearing on advance notice states that in future, correction if any required in this regard shall be made. However, as far as

the Petitioner is concerned, she is not found to have any case on the said ground also for the reason of the Petitioner having participated in the

selection process knowing fully well of the marks in the interview being 35%. The Supreme Court in a catena of judgments, to which reference is

made in *Vipul Bhole and Another Vs. The School of Planning and Architecture and Others*, has held that a candidate after having participated in

the selection process being fully aware of the same, upon being unsuccessful, is not entitled to challenge the same. Reference may also be made to

Manish Kumar Shahi Vs. State of Bihar and Others, where also it was held that after having taken part in the process of selection knowing fully

well that 19% marks had been earmarked for viva voce the Petitioner therein could not be held entitled to challenge the criteria or process of

selection.

7. No ground is made out; the writ petition is dismissed. No order as to costs.

8. At this stage, the counsel for the Petitioner states that certain queries through the medium of "Right to Information Act" have been made and

seeks opportunity to file a fresh petition if any fresh cause of action is discovered.

9. Liberty granted if discover fresh ground.