

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (C) NO.29967 OF 2011

DR. PREM LATA

... PETITIONER

Vs.

GOVT. OF NCT DELHI AND ORS.

... RESPONDENT

J U D G M E N T

ALTAMAS KABIR, J.

1. The Petitioner, Dr. Prem Lata, who appeared in-person, challenged the appointment of Mr. Rakesh Kapoor, Mr. C.K. Chaturvedi and Mr. S.N.A. Zaidi, the Respondent Nos. 4, 5 and 6 herein, as Presidents of different District Forums, by way of

Writ Petition (C) No.178 of 2011 in the Delhi High Court. In addition she prayed that while quashing the appointments of the said three Respondents, a Mandamus should issue to the State Government to appoint her as President of one of the District Fora in Delhi, with effect from 1st December, 2010, with all consequential benefits.

2. The Petitioner is a member of the District Forum and, pursuant to advertisements published on 18th March, 2010, inviting applications for the post of President of five District Forums, had applied for appointment as President of one of the said five District Forums in Delhi. After interviewing 63 candidates, the Selection Committee prepared a panel in which the Petitioner was shown as the first candidate in the waiting list in respect of Shalimar Bagh District Forum with Mr. M.C. Mehra as the selected candidate. Mr. Rakesh Kapoor, Mr. C.K. Chaturvedi and Mr. S.N.A. Zaidi, the

Respondent Nos. 4, 5 and 6 herein, were also shown as selected for the post of President for three of the remaining Districts. The panel was to be valid for a period of one year and, in case the candidates selected failed to join within 45 days of the offer of appointment, such offer would lapse and the second and third person, as the case may be, in order of preference, would be offered the appointment.

3. As indicated hereinabove, the Petitioner was the first alternative in case Mr. M.C. Mehra, who was selected, did not join as President of the Shalimar Bagh District Forum. It may be noted that Mr. Mehra did join, within 45 days of issuance of the appointment letter in his favour. Consequently, the Petitioner's chance of being appointed as President for the said District Forum came to an end.

4. However, it was the Petitioner's case that the Respondent Nos.4 to 6 did not join within 45 days of issuance of the letters of appointment in their favour, and that they were subsequently allowed to join, upon the conditions being relaxed, but that such relaxation was unlawful. It was also the Petitioner's case that the joining of the said Respondents as Presidents of their respective District Forums was invalid and was liable to be set aside and the Petitioner was entitled to be appointed as President of one of the District Forums in the resultant vacancies.

5. The writ petition was dismissed on the ground that at the relevant time when the appointment letters were issued, the Respondent No.4 was functioning as the Principal District & Sessions Judge, Delhi. The Respondent No.5 was functioning as the District Judge-II, Delhi, and the Respondent No.6 was functioning as the Additional District

Judge, Mathura. They had written to their respective High Courts to be relieved from their respective posts so that they could join their new posts. A request was also made on behalf of the High Court to the Lt. Governor, Delhi, for extension of time to enable the said Respondents to join their respective posts. In the circumstances indicated, the Government of NCT of Delhi extended the time and, thereafter, the said Respondents joined as Presidents of the respective Forums on 25th February, 2011 and 28th February, 2011. The learned Single Judge held that the power to extend the time was within the domain of the Respondent authorities and they had every right to extend the time to meet the exigencies which had cropped up in this case. The Petitioner, thereupon, preferred Letters Patent Appeal No.518 of 2011, which was dismissed by the Division Bench of the High Court on 16th August, 2011, upon reiteration of the decision of the learned Single Judge. It is

against the said judgment of the Division Bench of the High Court that the present Special Leave Petition is being filed.

6. The petitioner submitted that the appointment for the posts in question is governed under Section 10(1A) of the Consumer Protection Act, 1986, whereunder a Selection Committee consisting of the President of the State Commission, Secretary of the Law Department of the State and the Secretary In-charge of the Department dealing with the Consumer Affairs in the State makes recommendations for selection to such posts. The petitioner submitted that the concerned authorities were not entitled to go beyond the recommendations made by the Committee within the time prescribed and since the candidates selected had to join within 45 days from the date of the receipt of the appointment letter, the respondent Nos. 4 to 6, who had not joined within the said period, stood disqualified. The

petitioner also contended that the State Government acted in excess of jurisdiction in condoning the delay and allowing the said candidates to join their respective District Forums beyond the time specified. The petitioner also contended that upon disqualification of the said respondents 4 to 6, she was entitled to be appointed as the President of the one of the said three District Forums.

7. In addition to the above, the petitioner also challenged the manner in which the selection had been made so as to confine the concerned candidates to the respective districts for which they had been considered. The petitioner urged that there was no logical reason for her to have been placed in the Shalimar Bagh District beyond Shri M.C. Mehra, whereas she could have been selected for appointment in any of the other Districts. Urging that the entire selection process was arbitrary, the petitioner submitted that the appointments of

the respondent Nos. 4 to 6 after they had failed to join within the specified period of 45 days, were liable to be cancelled and a direction should be given to the State to appoint her as the President of one of the three Districts for which the respondent Nos.4 to 6 had been selected.

8. On the other hand, it was urged by the learned Additional Solicitor General, Mr. A.S. Chandhok, that the first five candidates, who had been selected for the post of the President for five District Forums, had been selected on the basis of merit, as was also the case in respect of the other candidates kept in the waiting list. The learned Additional Solicitor General contended that, in any event, the petitioner has no cause for grievance since Shri M.C. Mehra, who had been selected to be the President of the Shalimar Bagh District Consumer Forum, joined his post within the time specified and hence the petitioner could not claim

the post of President for the said District Forum. As far as the respondent Nos. 4 to 6 are concerned, the learned ASG pointed out that they were all serving in the District Judiciary when the appointment letters were issued to them. As indicated hereinbefore, at the relevant point of time the respondent No.4 was functioning as the Principal District and Sessions Judge, Delhi, while the respondent Nos.5 and 6 were functioning as the District Judge-II Delhi, and as the Additional District Judge, Mathura. The learned Additional Solicitor General submitted that on receipt of their appointment letters the Respondent Nos.4 to 6 had written to their respective High Courts to be relieved so that they could join their new posts. A request was also made to the Lt. Governor of Delhi on behalf of the High Court to extend the time of joining to enable the said respondents to join their respective District Forums. Mr. Chandhiok submitted that the delay in joining

their respective District Forums was not on account of any deliberate design on the part of the said respondents to delay such joining, but such delay resulted on account of the exigencies of the situation which had been considered by the High Court and had been decided in favour of the said respondents on the principle that the power to fix the time limit also includes the power to extend the said period, which power was inherent in the State Government. The learned ASG submitted that the selection had been done by the Selection Committee constituted under Section 10(1A) of the Act and the petitioner could not, therefore, have any grievance in that regard.

9. Having considered the submissions made by the petitioner appearing in person and the learned Additional Solicitor General and also counsel appearing for one of the private respondents, we see no reason to interfere with the judgment of the

High Court. The Selection was done in accordance with the provisions of the Consumer Protection Act and the placement of the candidates was also done by the Committee in a completely fair manner on assessment of individual performance. The first five selectees having opted to join their posts, those who were in the waiting list can have no claim for appointment in the said posts. Since the time limit for joining was extended by the State Government on account of the facts as narrated hereinabove, the joining of the respondent Nos. 4 to 6 cannot also be questioned.

10. The Special Leave Petition, therefore, fails and is dismissed, but without any order as to costs.

.....J.
(ALTAMAS KABIR)

.....J.
(J. CHELAMESWAR)

New Delhi

Dated: September 11, 2012

