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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment delivered on: 15.05.2024

+ W.P.(C) 6946/2024 & CM APPL. 28961-28962/2024

DR. HARVINDER POPLI

..... Petitioner

versus

DELHI PHARMACEUTICAL SCIENCES AND RESEARCH

UNIVERSITY AND ORS.

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. M.K. Bhardwaj, Ms. Priyanka M. Bhardwaj and Mr. Arun Prakash, Advocates

For the Respondent : Mr. Yashvardhan, Ms. Kritika Nagpal and Mr. Gyanendra Shukla, Advocate

CORAM:**HON'BLE MR. JUSTICE TUSHAR RAO GEDELA****JUDGMENT****TUSHAR RAO GEDELA, J. (ORAL)****[The proceeding has been conducted through Hybrid mode]**

1. This is a writ petition under Article 226 of the Constitution of India, 1950, seeking *inter alia* the following reliefs:-

“(i) To quash and set aside the impugned Show Cause Notice No. 10/478/2017/DPSRU/Part File-II/1399-1401 dated 06.05.2024 (P-1) and declare the appointment of petitioner to the post of Professor in consonance with the relevant rules/provisions/applicable norms as notified by the competent authority.



(ii) *To declare the action of respondents in treating the petitioner's appointment as bad in law and issue appropriate consequential directions.*

(iii) *To allow the Writ Petition with cost."*

2. By way of the present petition, the petitioner is challenging the show cause notice dated 06.05.2024 by virtue whereof, the petitioner has been asked to show cause as to why her services be not terminated on the ground of her not having the requisite qualifications and the required essential experience at the time of original induction at the post of Professor.

3. It is not disputed by the respondents that the petitioner at the time of induction into services, had filed an application dated 11.09.2016 giving her details of educational qualification as also her experience making her suitable for the said post. It is relevant to note that on the same very educational qualification and experience, the petitioner was inducted in to services as a professor in the year 2016 and subsequently *vide* the office order dated 17.01.2019, the respondent-university confirmed her services as a professor w.e.f.11.07.2018. It is obvious that the petitioner was confirmed in her services post verification of the requisite documents and the testimonials submitted by the petitioner in the year 2016 and would, only after satisfaction of the credentials that the university confirmed her services to the said post.

4. After a passage of almost 5 years, the impugned show cause notice has been issued. The show cause notice is predicated on clause 21 of the First Statute of respondent-University by virtue whereof the employees of the University can be removed. The show cause notice



also asserts that the experience as portrayed by the petitioner during the time of induction do not fulfill the criteria stipulated by the University Grants Commission's Regulation of 2010 as also amended in 2018.

5. Mr. Yashvardhan, learned counsel appearing for the respondent submits that it is only a show cause notice and the petitioner would have full opportunity to file her reply. That apart, he submits that in any case, the respondent-University is bound to proceed in terms of sub clause 3 of clause 21 of the First Statute of the University.

6. Mr. Bhardwaj, learned counsel appearing for the petitioner submits that after having satisfied itself of all the credentials and experience that the petitioner had in the year 2016 and having confirmed the petitioner at the post of professor in the year 2019, the present show cause notice is malafide and motivated. He submits that the reasons for such motivated show cause notice is her application for the post of Vice-Chancellor of the University. He submits that by way of such notice, the respondent is seeking to create an impediment in the career of the petitioner while she has already applied for the post of Vice Chancellor. He relies upon the judgment of the Supreme Court in *Adi Saiva Sivachariyargal Nala Sangam and Others. Vs. Government of Tamil Nadu and Another* reported in (2016) 2 SCC 725 particularly para 12 to submit that in case the facts of a particular case are founded on firm footing showing that there is going to be a real apprehension of damage, the Courts under Article 226 of the Constitution of India exercising power of judicial review can exercise such powers even at the stage of show cause notice.

7. The issue of whether the Court can interfere or interdict a show



cause notice is well settled in service jurisprudence by the Supreme Court in *Union of India and Another Vs. Kunisetty Satyanarayana* reported in (2006) 12 SCC 28, according to which neither the show cause notice nor the chargesheet is a stage which gives any cause of action since it is only putting the employee on notice and no adverse order at that stage has been passed which can be judicially reviewed by the Court. Hence, the exercise of power of exercise of judicial review has been deprecated ordinarily.

8. Having said that, however, it will be relevant to keep in mind the conditions as stipulated in clause (ii) of University grants Commission guidelines 2018, which stipulates as under:-

“II. Associate Professor:

Eligibility:

- i) A good academic record, with a Ph.D. Degree in the concerned/allied/relevant disciplines.*
- ii) A Master's Degree with at least 55% marks (or an equivalent grade in a point-scale, wherever the grading system is followed).*
- iii) A minimum of eight years of experience of teaching and/or research in an academic/research position equivalent to that of Assistant Professor in a University, College or Accredited Research Institution/industry with a minimum of seven publications in the peer-reviewed or UGC-listed journals and a total research score of Seventy five (75) as per the criteria given in Appendix III, Table 2.”*
- iv) Contribution to educational innovation, design of new curricula and courses, and technology mediated teaching learning process.*

(Emphasis Supplied)

9. In fact the Show Cause Notice also refers to the said sub-Clause (iii) while levelling the charges of the petitioner not having the essential



qualification.

10. The question to be considered would be the interplay of the words “and/or” as appearing in the eligibility conditions stipulated by the UGC. In view of the fact that the petitioner was in service of the respondent for a period of eight years, it would be just and appropriate to grant protection post the order to be passed by the Competent Authority for a period of 10 days from the said date for the petitioner to take appropriate steps for redressal of her grievance.

11. It is informed that the time to file the reply to the show cause notice is expiring on 16.05.2024. The petitioner is therefore granted ten days time to file her substantive reply. The Competent Authority is directed to consider the reply holistically taking into consideration that the petitioner was in fact employed by the University previously as also the fact that after having verified each and every document and testimonies the petitioner was confirmed in the year 201. The Competent Authority shall afford an opportunity of personal hearing to the petitioner. The date, time and venue will be intimated well in advance.

12. The Competent Authority shall keep in mind the interplay of the words ‘and / or’ as employed in the UGC guidelines while passing this order.

13. The petition is disposed of in the above terms.

14. The application submitted by the petitioner for consideration to the post Vice Chancellor may be considered on its own merits.

TUSHAR RAO GEDELA, J.

MAY 15, 2024/ms