

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH**

**O.A.NO.944 OF 2015**

**New Delhi, this the 8<sup>th</sup> day of March, 2018**

**CORAM:**

**HON'BLE SHRI RAJ VIR SHARMA, JUDICIAL MEMBER  
AND**

**HON'BLE MS.PRAVEEN MAHAJAN, ADMINISTRATIVE MEMBER**

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Mrs. Jyoti,

D/o Bhoop Singh,

R/o B-33, Street No.2,

First Pusta, New Usmanpur,

Delhi 110053

.....

Applicant

(By Advocate: Mr.Anuj Aggarwal)

Vs.

1. Government of NCT of Delhi,  
Through the Chief Secretary,  
Secretariat, I.P.Estate,  
New Delhi 110002

2. Delhi Subordinate Services Selection Board(DSSSB),  
Through its Secretary,  
FC-18, Institutional Area,  
Karkardooma,  
Delhi 110092

3. North Delhi Municipal Corporation (NDMC),  
Through its Commissioner (North),  
Dr.S.P.M.Civic Centre,  
J.L.Nehru Marg,  
New Delhi 110002

4. South Delhi Municipal Corporation (SDMC),  
Through its Commissioner (South),  
23<sup>rd</sup> Floor, Civic Centre,  
Minto Road,  
New Delhi 110002

5. East Delhi Municipal Corporation (EDMC),  
Through its Commissioner (East),  
419, Udyog Sadan Patparganj Industrial Area,  
New Delhi 110096

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Respondents

(By Advocates: Mr. Vijaya Pandita for R-1 & 2, Ms. Anupama Bansal for R-3)

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**ORDER**

**Per RAJ VIR SHARMA, MEMBER(J):**

The applicant has filed this Original Application seeking the following reliefs:

- “(i) issue an appropriate order or direction thereby setting aside the impugned Rejection Notice dated 05/12/2014 (Annexure A-1) whereby the candidature of the applicant for the post of Teacher (Primary)(Post Code 70/09) was rejected;
- (ii) issue an appropriate order or direction thereby declaring that the rejection of the candidature of the applicant on the ground “**caste certificate made after cutoff date**” by the Respondent No.2/DSSSB is arbitrary, discriminatory, punitive, unreasonable, unconstitutional and violative of Articles 14, 16,21 & 311 of the Constitution of India;
- (iii) issue an appropriate order or direction thereby directing the respondents to consider the candidature of the applicant for the post of Teacher (Primary) and, after such consideration, appoint the applicant to the post of Teacher (Primary) with all consequential benefits thereof;
- (iv) issue any appropriate order or direction as this Hon’ble Tribunal may deem fit and proper in the interest of justice and in the favour of the applicant; and
- (v) allow the present application with costs in favour of the applicant.”

2. Resisting the O.A., respondent nos. 1 and 2 have filed counter reply.

2.1 In their counter replies, respondent nos. 3 and 4 have merely asserted that they are only pro forma parties.

3. The applicant has filed a rejoinder reply refuting the stand taken by respondent nos. 1 and 2 in their counter reply.

4. We have carefully perused the records and have heard Mr. Anuj Aggarwal, learned counsel appearing for the applicant, and Mr. Vijaya Pandita, learned counsel appearing for respondent nos. 1 and 2, and Ms. Anupama Bansal, learned counsel appearing for respondent no. 3-North Delhi Municipal Corporation.

5. Brief facts of the case, which are relevant for the purpose of deciding the controversy and are not disputed by either side, are as follows:

5.1 In December 2009, respondent no. 2-Delhi Subordinate Services Selection Board (hereinafter referred to as 'DSSSB') published Advertisement No. 004/2009 (Annexure A/2) inviting applications for recruitment to the post of Teacher (Primary) in Municipal Corporation of Delhi, vide Post Code No. 70/09. In response to the Advertisement No. 004/2009, the applicant made application as a Scheduled Caste (SC) candidate, along with copies of the relevant documents, including the Scheduled Caste Certificate dated 6.5.1999, by the stipulated date, i.e., 15.1.2010.

5.2 In compliance of the order dated 20.7.2010 passed by the Tribunal in OA Nos. 121 and 151 of 2010, the Recruitment Rules for Post Codes 70/09 and 71/09 were amended by the user Departments. Consequently, respondent no. 2-DSSSB, vide notice dated 13.9.2011

(Annexure A/7), made certain amendments to the Advertisement No.004/2009 and invited applications from prospective eligible candidates who fulfilled the eligibility conditions as on 15.1.2010. In the notice dated 13.9.2011 (ibid) it was also stipulated by respondent no.2-DSSSB that the candidates who had already submitted their application forms in response to Advertisement No.004/2009 were not required to apply again except for depositing the additional fee of Rs.50/-, and that the candidates should submit the documents at the reception counter between 16.9.2011 and 17.10.2011.

5.3 The applicant again submitted application for selection and recruitment to the post of Teacher (Primary), Post Code 70/09, Advertisement No.004/2009, as an SC candidate, along with the requisite documents including a Scheduled Caste Certificate dated 4.4.2011.

5.4 On the basis of the Admit Card issued by respondent no.2-DSSSB, the applicant, vide Roll NO.07080461, appeared in the written examination held on 2.2.2014.

5.5 Respondent no.2-DSSSB published a result notice dated 5.12.2014 (Annexure A/8) provisionally selecting and recommending the candidates for appointment to the post of Teacher (Primary), Post Code 70/09. As per the above result notice, the last selected SC candidate scored 59.24 marks in the written examination.

5.6 Respondent no.2-DSSSB also published a rejection notice dated 5.12.2014 containing a list of names of 1500 candidates whose candidatures were rejected due to various reasons shown against their names. The applicant's name appeared at sl.no.1015 of the said list, and she was shown to have scored 74.5 marks in the written examination, and her candidature was shown to have been rejected on the ground of 'CASTE CERTIFICATE MADE AFTER CUT OFF DATE'. The applicant made a representation dated 26.12.2014 (Annexure A/9) requesting respondent no.2-DSSSB to correct the error and to select and recommend her for appointment to the post of Teacher (Primary) in MCD, vide Post Code 70/09, Advertisement No.004/2009. There being no response, the applicant sent a legal notice dated 3.3.2015 (Annexure A/1) calling upon respondent no.2-DSSSB to revoke the rejection of her candidature and to consider her candidature for selection and appointment as an SC candidate, as she had finished the S.C.Certificate dated 6.5.1999 and had scored 74.5 marks in the written examination. The above legal notice having yielded no fruitful result, the applicant filed the present O.A. on 4.3.2015 seeking the reliefs as aforesaid.

6. In the above context, Mr.Anuj Aggarwal, learned counsel appearing for the applicant, invited our attention to the copies of the Scheduled Caste Certificate dated 6.5.1999 (Annexure A/4) issued by the Sub Divisional Magistrate, Seelampur, Delhi, and of the Scheduled Caste Certificate dated 4.4.2011 (Annexure A/6) issued by the Tehsildar,

Seelampur, Delhi, and submitted that when the applicant had furnished the copies of the aforesaid Scheduled Caste Certificates while applying for selection as an SC candidate, respondent no.2-DSSSB acted arbitrarily and unreasonably in rejecting her candidature on the ground of SC certificate being issued after the cut-off date. In support of the case of the applicant, Mr.Anuj Aggarwal relied on the decision of the Hon'ble High Court of Delhi in **Tej Pal Singh and others vs. Government of NCT of Delhi and another**, CWP No.1357 of 1999, decided on 24.12.1999.

7. On the other hand, it was submitted by Mr.Vijaya Pandita, learned counsel appearing for respondent nos. 1 and 2 that in terms of the Advertisement No.004/2009 and the addendum dated 13.9.2011, the eligibility conditions were required to be fulfilled by the candidates as on 15.1.2010. As the applicant submitted SC Certificate dated 4.4.2011 while making application for selection as an SC candidate, she cannot be said to have fulfilled the eligibility condition as on 15.1.2010 for consideration of her candidature as an SC candidate. Therefore, there was no infirmity in the decision taken by respondent no.2-DSSSB in rejecting her candidature.

8. After having given our thoughtful consideration to the rival contentions, we have found considerable merit in the contention of Mr.Anuj Aggarwal, learned counsel appearing for the applicant.

9. Admittedly the applicant had submitted the copy of the SC certificate dated 6.5.1999 while making application by the cut-off date, i.e.,

15.1.2010, pursuant to the Advertisement NO.004/2009. In terms of the addendum dated 13.9.2011 (Annexure A/7), the candidates who had already submitted their applications in response to the Advertisement No.004/2009 were not required to apply again except for depositing the additional fee of Rs.50/-. It is, thus, seen that the applicant had misunderstood the terms and conditions contained in the addendum dated 13.9.2011 and again applied for selection and furnished the SC certificate dated 4.4.2011. Though in terms of the addendum dated 13.9.2011 respondent no.2-DSSSB ought to have ignored the applicant's subsequent application along with the SC Certificate dated 4.4.2011, yet respondent no.2-DSSSB acted on both the applications submitted by the applicant and allowed the applicant to appear in the recruitment examination for selection as an SC candidate. Instead of acting on the SC certificate dated 6.5.1999 furnished by the applicant while applying for selection as an SC candidate in response to the Advertisement No.004/2009, respondent no.2-DSSSB took advantage of their own erroneous action and rejected the applicant's candidature on the basis of the SC certificate dated 4.4.2011 furnished by the applicant while making application for the second time in response to the addendum dated 13.9.2011. Thus, the application, along with the SC Certificate dated 6.5.1999, submitted by the applicant pursuant to the Advertisement No.004/2009 was the only valid application, and respondent no.2-DSSSB ought to have considered the applicant as an SC candidate on the basis of the

said SC Certificate dated 6.5.1999. In the above view of the matter, we have no hesitation in holding that respondent no.2-DSSSB acted arbitrarily and unreasonably in ignoring the SC certificate dated 6.5.1999 furnished by the applicant and in rejecting the applicant's candidature solely on the basis of the SC certificate dated 4.4.2011 which was submitted by the applicant while making application pursuant to the addendum dated 13.9.2011. Therefore, the rejection notice dated 5.12.2014 (Annexure A/1), qua the applicant, is unsustainable and liable to be quashed.

10. In the light of our above discussions, we quash the impugned rejection notice dated 5.12.2014 (Annexure A/1) qua the applicant and direct respondent no.2-DSSSB to consider the candidature of the applicant for selection and recommendation for appointment to the post of Teacher (Primary) in MCD under SC Category, pursuant to Advertisement No.004/2009, Post Code 70/09, on the basis of marks scored by her in the written examination.

11. Resultantly, the O.A. is partly allowed to the extent indicated above. No costs.

**(PRAVEEN MAHAJAN)**  
**ADMINISTRATIVE MEMBER**

**(RAJ VIR SHARMA)**  
**JUDICIAL MEMBER**

