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**(2006) 07 DEL CK 0115**

**In the Delhi High Court**

**Case No : Writ Petition (C) No. 10582 of 2006**

Basant Kumar

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

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**Date of Decision :** 12-07-2006

**Acts Referred:**

**Citation :** (2006) 07 DEL CK 0115

**Hon'ble Judges :** Hima Kohli, J;Dr. M.K. Sharma, J

**Bench :** Division Bench

**Advocate :** G.C. Nagar, for the Appellant; Jyoti Singh and Ankur Chhibber, for the Respondent

**Final Decision :** Dismissed

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## **Judgement**

Mukundakam Sharma, J.—By this writ petition the petitioner has challenged the letter of appointment dated 15th April, 2005 issued by the respondents in favor of Col. Mahavir Singh Verma appointing him to the post of Manager in the Station Canteen, Delhi Cantonment. This petition is filed as a public interest litigation by the Secretary, Khajan Singh Memorial Trust. The allegation is that the aforesaid appointment in favor of Mahavir Singh Verma is illegal and in violation of the Standing Operating Procedures adopted by the respondents. In support of his submission counsel appearing for the petitioner has relied upon Annexure P-1 to the writ petition which is a Convening Order dated 27th January, 2005, that provides the guidelines and criteria for selecting candidates. One of the criteria in the said Convening Order is that the age of the candidate selected for appointment to the post of Manager of Station Canteen shall not be more than 57 years.

2. It is contended before us by the petitioner that Col. Mahavir Singh Verma is aged more than 57 years and Therefore his appointment is illegal. We have also heard the learned Counsel appearing for the respondents who has placed before us the revised Standing Operating Procedures which were issued by the respondents in the month of February, 2005. A perusal of the revised Standing

Operating Procedures indicates that the criteria of upper age limit of the candidate has been changed from 57 years to 58 years.

3. Having heard the learned Counsel appearing for the parties and after going through the records, we are of the considered opinion that this petition is not maintainable on more than one grounds. By way of the present writ petition, the appointment of Col. Mahavir Singh Verma is challenged. Such a challenge could only have been made by a candidate who had also appeared in the interview for selection to the post of Manager in the Station Canteen. The petitioner herein cannot in any manner be said to be personally aggrieved by the aforesaid selection of Col. Mahavir Singh Verma as he has not applied for being considered to be appointed to the said post. The petitioner is not directly concerned and affected by the impugned order. In this connection we may refer to the following observations of the Supreme Court in *Rajnit Prasad Vs. Union of India (UOI) and Others*, :

However a mere busybody who has no interest cannot invoke the jurisdiction of the Court. In respect of departmental proceedings which are initiated sought to be initiated by the government against its employees, a person who is not even remotely connected with those proceedings cannot challenge any aspect of the departmental proceedings or action by filing a writ petition in the High Court or in the Supreme Court.

4. The other ground on which this petition is not maintainable is that the petitioner has failed to implead as a respondent Col. Mahavir Singh Verma, whose appointment is challenged in this writ petition. In his absence no challenge to his appointment can be entertained and Therefore also this petition is not maintainable.

5. The next issue that arises for our consideration is that the petitioner has relied upon the criteria laid down regarding age in the Convening Order dated 27th January, 2005. It is true that the said Convening Order provides that no candidate who is more than 57 years of age would be selected for appointment to the post of Manager in the Station Canteen. However, we find from the records that the said Guidelines have been revised by the respondents by issuing Standing Operating Procedures in the month of February, 2005. Paragraph 31 of the aforesaid Standing Operating Procedures lays down that tenure of the Manager will be on periodic contract basis, initially for two years and extendable by one year and that the age of the Canteen Manager at the time of joining/ assuming the appointment shall not be more than 58 years of age. Admittedly, Col. Mahavir Singh Verma is less than 58 years of age. Therefore, his appointment by the competent authority cannot be challenged on the ground that it is illegal and irregular for the aforesaid reasons.

6. In coming to the aforesaid conclusions, we are fortified by the decisions of the Supreme Court in *Dr. Duryodhan Sahu and Others Etc. Etc. Vs. Jitendra Kumar Mishra and Others Etc. Etc.*, and *Ashok Kumar Pandey Vs. The State of West*

Bengal and Others, . In Ashok Kumar Pandey's case the Supreme Court has held thus:

When there is material to show that a petition styled as a public interest litigation is nothing but a camouflage to foster personal disputes, the said petition is to be thrown out.

A person acting bona fide and having sufficient interest in the proceeding of public interest litigation will alone have a locus standi and can approach the court to wipe out violation of fundamental rights and genuine infraction of statutory provisions but not for personal gain or private profit or political motive or any oblique consideration.

In the said decision it was further held as under:

Though in Duryodhan Sahu (Dr.) v. Jitendra Kumar Mishra this Court held that in service matters PILs should not be entertained, the inflow of so-called PILs involving service matters continues unabated in the courts and strangely are entertained. The least the High Courts could do is to throw them out on the basis of the said decision.

Following the said decisions, we find no merit in this petition and the same is dismissed.