

(2011) 12 DEL CK 0078

In the Delhi High Court

Case No : Writ Petition (C) 7577 of 2011

Educational Consultants India Ltd. SC/ST Employees Welfare
Association

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 07-12-2011

Acts Referred:

Citation : (2011) 12 DEL CK 0078

Hon'ble Judges : Rajiv Sahai Endlaw, J;A.K. Sikri, J

Bench : Division Bench

Advocate : C.N. SreeKumar and Mr. T.G.N. Nair, for the Appellant; A.S. Chandhiok, ASG with Ms. Sapna Chauhan, for R-1 and 2, Mr. Shobha, Bijoylashmi and Mr. Raghav Pandey, for R-4, for the Respondent

Final Decision : Dismissed

Judgement

Rajiv Sahai Endlaw, J.—The SC/ST Employees Welfare Association of Educational Consultants India Ltd. has filed this writ petition in public interest seeking quashing of order dated 29th November, 2010 of the Department of Higher Education, Ministry of Human Resource Development, Government of India granting extension of tenure of respondent No. 4 Ms. Anju Banerjee as Chairman-cum-Managing Director of EdCIL (India) Ltd. (not impleaded as a party) for an initial period of three months beyond 29th November, 2010 and the order dated 22nd February, 2011 extending the tenure of the respondent No. 4 as CMD of EdCIL (India) Ltd. for the remaining period of five years i.e. up to 28th November, 2015.

2. The admitted position is that the respondent No. 4 was on 4th October, 2005 appointed as the CMD of EdCIL (India) Ltd. for a period of five years w.e.f. 30th November, 2005 and her tenure was to come to an end on 29th November, 2010 and was entitled to extension beyond five year tenure, having not yet reached the age of superannuation. The gravamen of the challenge by the petitioner to the orders aforesaid of extension of tenure of the respondent No. 4 as CMD of

EdCIL (India) Ltd. is that the requisite mandatory Central Vigilance Commission (CVC) clearance for such extension had not been obtained. It is also the case of the petitioner that since corruption charges are pending against the respondent No. 4, she was not entitled to such extension.

3. It may be stated that upon the Public Enterprises Selection Board (PESB) having recommended extension of tenure beyond 29th November, 2010 of the respondent No. 4 as CMD of EdCIL (India) Ltd., the respondent No. 3 CVC vide its letter dated 1st November, 2010 sought complete information in respect of respondent No. 4; the Vigilance Section of the Department of Higher Education, Ministry of Human Resource Development vide its letter dated 9th November, 2010 informed the respondent No. 3 CVC that the respondent No. 4 was clear from vigilance angle; the respondent No. 3 CVC vide its letter dated 2nd December, 2010 (supra) brought to the notice of the Ministry of Human Resource Development that there had been a series of complaints against the respondent No. 4 from a Deputy Manager of EdCIL (India) Ltd., levelling allegations of harassment and irregularities in promotion/appointments; some of these allegations had been found to be prima facie true; that upon the respondent No. 3 CVC taking up the case for protection of the whistle blower, the respondent No. 4 not only put pressure on the CVO but also eventually got the CVO's post abolished. The respondent No. 3 CVC thus advised that the said facts be placed before the competent authority while it considers the case of the respondent No. 4 for extension of tenure.

4. The writ petition came up first before this Court on 19th October, 2011 when response of the respondent No. 3 CVC as to whether specific clearance was required for extending the term of the respondent No. 4 for another five years or whether the respondent No. 3 CVC had no role to play in the matter after it addressed the communication dated 2nd December, 2010 to the Joint Secretary and CVO, Ministry of Human Resource Development, Department of Higher Education, was called for.

5. In compliance of the order dated 19th October, 2011 (supra), an affidavit has been filed enclosing inter alia letter dated 6th January, 2011 of the Ministry of Human Resource Development, Government of India to the respondent No. 3 CVC informing that the complaint of the Deputy Manager was motivated as a charge sheet had been issued to him prior to his making the complaint; that he thus did not even stand in the position of a whistle blower and that the abolition of the CVO's post in EdCIL (India) Ltd. was with the sanction of the Ministry. The affidavit also encloses other documents to show that the decision to extend the term of the respondent No. 4 as CMD was taken after due consideration of all the facts. The affidavit also encloses the letter dated 16th March, 2011 of the Ministry of Human Resource Development to the respondent No. 3 CVC closing the complaints against the respondent No. 4.

6. The learned Additional Solicitor General has during the hearing today also handed over a copy of the letter dated 9th November, 2011 of the respondent

No. 3 CVC to the Ministry informing that the respondent No. 3 CVC had no role after issuance of the communication dated 2nd December, 2010 regarding vigilance clearance.

7. We are thus satisfied that there is no merit in the allegation in the petition of the extension of the term of the respondent No. 4 being without the CVC clearance. We are also satisfied that there is no other illegality in the CVC clearance.

8. We therefore do not find any merit in the petition; the same is dismissed. No order as to costs.