

(2012) 07 DEL CK 0110
In the Delhi High Court
Case No : Writ Petition (C) 4266 of 2012

Kuldeep Singh

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 25-07-2012

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2012) 07 DEL CK 0110

Hon'ble Judges : Siddharth Mridul, J;Badar Durrez Ahmed, J

Bench : Division Bench

Advocate : Himanshu Upadhyay, for the Appellant; R.K. Singh and Mr. B.V. Niren, for the Respondent

Final Decision : Dismissed

Judgement

Badar Durrez Ahmed, J.—This writ petition has been filed by the petitioner against the order dated 23.01.2012 passed by the Central Administrative Tribunal, Principal Bench, New Delhi in OA No. 191/2012. The petitioner sought to challenge the appointment of the respondent No. 3 (Professor B.K. Tripathi) to the post of Joint Director, NCERT on the ground that the said respondent No.3 lacked the requisite experience. At the very inception of the arguments we had asked the Learned Counsel for the petitioner to demonstrate as to whether he had the locus standi to pursue this matter. Accordingly, we had adjourned this matter to enable the Learned Counsel for the petitioner to take instructions from the petitioner with regard to the withdrawal of the writ petition as apparently the petitioner did not have any locus standi. The Learned Counsel for the petitioner has taken instructions and states that the petitioner wants to pursue this writ petition.

2. In this context we may point out that after hearing the Learned Counsel for the petitioner, as also the Learned Counsel for the respondents we find that the challenge to the appointment of respondent No.3 if successful, will not result in any benefit to the petitioner. In fact, the petitioner was not even a claimant to

the post of Joint Director, NCERT. Therefore, the petitioner has no private interest in the matter. Further, there can be no public interest in a service matter. This has categorically been held by the Supreme Court in *R.K. Jain v. Union of India* (1993) 3 SCC 119. The Supreme Court observed that:-

In service jurisprudence it is settled law that it is for the aggrieved person i.e. non-appointee to assail the legality of the offending action. Third party has no locus standi to canvass the legality or correctness of the action.

3. The Learned Counsel for the petitioner has placed before us a decision of the Supreme Court in the case of *J.M. Desai v. Roshan Kumar* AIR 1976 SC 578 in order to submit that he did have a locus standi to invoke the certiorari jurisdiction. However, on going through the said decision we do not find anything in his favour. He is definitely not the "person aggrieved" and, therefore, we would not like to exercise our certiorari jurisdiction under Article 226 of the Constitution. In the said decision, the Supreme Court has observed in paragraph 12 thereof that in order to have locus standi to invoke the certiorari jurisdiction, the petitioner should be an "aggrieved person". In the said decision, it is further observed that if the petitioner does not fulfill that character and is a "stranger" the Court will, in its discretion, deny him this extraordinary remedy, save in very special circumstances. The Court also noted that the expression "aggrieved person" is an elastic, and, to an extent, an elusive concept. However, the Supreme Court, after examining the various earlier decisions, observed in paragraph 33 that the Supreme Court has laid down in a number of decisions that in order to have the locus standi to invoke the extraordinary jurisdiction under Article 226, an applicant should ordinarily be one who has a personal or individual right in the subject matter of the application, though in cases of some of the writs like habeas corpus or quo warranto this rule is relaxed or modified. The Supreme Court observed further that in other words, as a general rule, infringement of some legal right or prejudice to some legal interest inhering in the petitioner is necessary to give him a locus standi in the matter. Unfortunately, the petitioner does not have any interest in the matter nor has he any legal right to challenge the appointment of respondent No.3 to the post of the Joint Director, NCERT. Therefore, in our view the petitioner does not have the locus standi to pursue this writ petition. The writ petition is dismissed.