



CWP-1649-2019 AND CWP-7608-2022

1

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**(I) CWP-1649-2019 (O&M)
Reserved on : 07.03.2025
Pronounced on : 22.04.2025**

AMITAVA CHOUDHURY AND ANR -PETITIONERS

V/S

UNION OF INDIA AND ORS -RESPONDENTS

(II) CWP-7608-2022

DR. DHEERAJ SHARMA -PETITIONER

V/S

UNION OF INDIA AND ANR -RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Parunjeet Singh, Advocate and
Mr. Rajat Chopra, Advocate
for the petitioners (in CWP-1649-2019).

Mr. Puneet Bali, Sr. Advocate with
Mr. Gagandeep Singh, Advocate and
Mr. Anmol Chandan, Advocate
for the petitioner (in CWP-7608-2022).

Mr. Satya Pal Jain, Addl. Solicitor General of India, with
Mr. Pankaj Gupta, Sr. Panel Counsel
for the respondent(s)-Union of India.

Mr. Udit Garg, Advocate and
Mr. Ritvik Garg, Advocate
for the respondent No.4 (in CWP-1649-2019).

Mr. Vivek Singla, Advocate and
Ms. Urvashi, Advocate
for the respondent No.5.

Mr. Bhupender Singh, D.A.G., Haryana.

**CWP-1649-2019 AND CWP-7608-2022****2****KULDEEP TIWARI, J. (ORAL)**

1. The amenability of both these writ petitions for being decided through a common verdict originates from them becoming engendered by a common issue appertaining to the eligibility of Dr. Dheeraj Sharma (petitioner in CWP-7608-2022) (hereinafter referred to as ‘Dr. Dheeraj Sharma’) for being appointed as the Director of the Indian Institute of Management, Rohtak (hereinafter referred to as the ‘I.I.M., Rohtak’).

2. To be precise, CWP-1649-2019 encloses the writ of quo warranto against the appointment of Dr. Dheeraj Sharma as the Director of the I.I.M., Rohtak and also assails the minutes of meeting dated 29.04.2016, office memorandums dated 16.11.2016 and 10.02.2017, wherethrough, the name of Dr. Dheeraj Sharma was proposed for directorship. On the other hand, CWP-7608-2022 encloses challenge to the show cause notice (File No.22-06/2019-TS.V) dated 28.03.2022, issued by the Ministry of Education, Department of Higher Education, Management Bureau, whereby, Dr. Dheeraj Sharma has been asked to show cause as to why necessary administrative and legal action should not be taken against him for deliberate non submissions of Bachelor’s degree certificates and misrepresentation of education qualifications for securing appointment to the office in question.

3. Before this Court proceeds to gauge the legality of the impugned appointment, it would be apt to record at the outset that, Dr. Dheeraj Sharma had completed his first tenure of directorship on

**CWP-1649-2019 AND CWP-7608-2022****3**

19.02.2022, whereupon, he has been re-appointed by the Board of Governors, I.I.M., Rohtak, vide appointment letter dated 28.02.2022. The second/re-appointment of Dr. Dheeraj Sharma is not under challenge before this Court, as there is no dispute with regard to his eligibility for the second tenure of directorship.

FACTUAL MATRIX

4. An advertisement was issued on 31.03.2015, wherethrough, applications were invited for the post of Director, I.I.M., Rohtak, from distinguished professionals and academic administrators having at least 15 years teaching/research experience in reputed institutions. Another essential requirement for appointment was that, the applicants should have outstanding academic credentials throughout, including a Ph.D Degree from a reputed institution with First Class degree at Bachelor's and Master's level.

5. The advertisement clearly spelt out that, the Director will be appointed after obtaining approval of the Appointments Committee of Cabinet (hereinafter referred to as the 'A.C.C.') based on the recommendations made by a Search-cum-Selection Committee (hereinafter referred to as the 'S.C.S.C.'). The S.C.S.C was also authorized to consider applications fulfilling the above criteria received in response to the advertisement **as well as nomination received from eminent persons in the field of management/management education.**



CWP-1649-2019 AND CWP-7608-2022

4

6. In response to the advertisement, total 59 applicants applied for the post of Director, including Dr. Dheeraj Sharma, who applied on 11.05.2015. Thereafter, the Government of India, Ministry of Human Resource Development, Department of Higher Education (hereinafter referred to as the 'MHRD'), constituted the S.C.S.C. on 17.12.2015, composition whereof is extracted hereinafter:-

1.	Shri Madhav Chitale Former Secretary to Government of India	Chairman
2.	Shri Vinay Sheel Oberoi Secretary (HE), MHRD	Member (Nominee of MHRD)
3.	Shri Ravi Kant Chairman, BoG, IIM Rohtak	Member
4.	Shri V.K. Saraswat Former Director General, DRDO	Member
5.	Shri Anant Narayanan Former Director NPOL, DRDO, Kochi	Member

7. In its first meeting held on 22.02.2016, the S.C.S.C. examined all the 59 applications vis-a-vis the following three broad parameters:-

- (a) *Academic Qualifications*
- (b) *Professional Experience*
- (c) *Administrative Experience*

8. After examining the qualifications prescribed in the advertisement and the individual data of each of the candidates, 13 candidates, including Dr. Dheeraj Sharma, were shortlisted by the S.C.S.C. for personal interview. Apart from these 13 candidates, one Prof. Atanu Rakshit of I.I.M., Rohtak, and, one Prof. S. Bhargav from the

**CWP-1649-2019 AND CWP-7608-2022****5**

Shailesh J. Mehta School of Management were also decided to be called for interview, subject to them fulfilling the eligibility criteria., in its first meeting, the S.C.S.C. specifically observed that, some of the candidates have not mentioned their class/percentage of marks obtained in Bachelor's and Master's degree examinations, as required in the advertisement. Therefore, it was decided to call the relevant certificates from all the 13 shortlisted candidates. It would be apt to record here that, out of the two additional candidates, only Prof. Atanu Rakshit satisfied the criteria and was called for interview, whereas, Prof. Bhargav did not qualify the eligibility criteria of having first class at Bachelor's and Master's level and was not invited for interview.

9. Thereafter, vide letter dated 31.03.2016, the MHRD, purveyed specific information to Dr. Dheeraj Sharma that, since he has not mentioned the class/division secured at his Bachelor's and Master's level examination, and, since the requisite certificates have not been furnished by him despite making request via e-mail dated 28.03.2016, therefore, was requested to attend the personal discussion along with original testimonials.

10. Dr. Dheeraj Sharma and other shortlisted candidates appeared in the personal discussion, whereupon, the S.C.S.C. in its second meeting held on 29.04.2016, after considering all the candidates and also taking into account their respective resume and their performance during personal discussion, unanimously recommended the following panel of

**CWP-1649-2019 AND CWP-7608-2022****6**

candidates for appointment to the post of Director, I.I.M., Rohtak, in order of merit.

(i) *Dr. Bharat Bhasker*

(ii) *Dr. Dheeraj Sharma*

(iii) *Dr. B.S. Sahay*

11. Since Dr. Bharat Bhasker, who acquired first position in the recommended panel of candidates, was already recommended as Director of I.I.M. Raipur, therefore, the Human Resource Development Minister recommended the name of Dr. Dheeraj Sharma, who acquired second position in the panel of candidates, for appointment as Director, I.I.M., Rohtak. Accordingly, the proposal for appointment of Dr. Dheeraj Sharma as Director, I.I.M., Rohtak, was forwarded to the A.C.C. This proposal was considered by the Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training (hereinafter referred to as the 'DoPT'), who had to act as Nodal Agency for A.C.C. After considering this proposal, the DoPT requested the MHRD to resubmit the personal particulars proforma of Dr. Dheeraj Sharma duly certifying that he meets the eligibility requirements for the post as on the crucial date of eligibility. In response to this request, the MHRD, vide letter dated 07.12.2016, confirmed that he meets the eligibility requirements as on the crucial date of eligibility. Finally, on 10.02.2017, the A.C.C. approved his appointment to the post of Director, I.I.M., Rohtak, and, this approval was conveyed to the Chairman, Board of Governors, I.I.M., Rohtak, on

**CWP-1649-2019 AND CWP-7608-2022**

7

17.02.2017, with the request to issue offer of appointment. Accordingly, the Chairman sought consent to appointment from Dr. Dheeraj Sharma on 20.02.2017, which was furnished by the latter.

12. Now, the precise issue racked up before this Court is as to whether Dr. Dheeraj Sharma possessed the requisite qualifications and experience, as prescribed in the advertisement, for being appointed as the Director, I.I.M., Rohtak.

SUBMISSIONS OF THE LEARNED COUNSEL FOR THE PETITIONERS (IN CWP-1649-2019)

13. The petitioner No.1 claims himself to be an eminent RTI activist from West Bengal, and, the petitioner No.2 claims himself to be an advocate practicing at Delhi High Court. On the basis of information gathered by the petitioners and their allies, under the R.T.I. Act, the learned counsel for the petitioners has made endeavour to throw challenge to the appointment and has pitched the hereinafter enumerated arguments:-

(a) Dr. Dheeraj Sharma deliberately did not furnish in his CV any particulars of his Bachelor's and Master's degree, whereas, the remaining two selected candidates furnished complete details of their credentials. Moreover, he did not furnish any proof of first class graduation degree, whereas, the other candidates annexed the requisite certificates and



degrees;

(b) Furthermore, he deliberately also did not furnish in his CV the details of his 15 years of teaching. The crucial eligibility that, he had experience of 09 years is missing because the computation of 15 years teaching/research experience will not include full time doctoral studentship and industrial experience;

(c) The MBA degree (Annexure P-24 in CWP-1649-2019) is forged and fabricated inasmuch as perusal thereof clearly reflects that it was awarded to him on 31.12.1999 after completing two years' full time course in Dr. B.R. Ambedkar University, Agra, whereas, the transcript appended with the Degree of Doctor of Business Administration (Annexure P-23 in CWP-1649-2019) indicates that, he completed his B.Com degree from the University of Delhi in 1998. Therefore, how could Dr. Dheeraj Sharma, even before obtaining B.Com degree, joined the MBA programme in 1997. Not only this, the result of first three semesters of MBA course was declared on 22.02.2001 and the result of fourth semester was declared on 07.03.2001, i.e. more than a year after the issuance of the MBA degree.

(d) As per the statement of marks appended with the



MBA degree, Dr. Dheeraj Sharma appeared in fourth semester MBA examination in May, 1999, however, in his CV, he has declared that, from April, 1999, he was working in the U.S.A. in the company namely Duncan Holdings.

(e) As per the Degree of Doctor of Business Administration, Dr. Dheeraj Sharma attended full time doctoral course in the U.S.A. between August, 2001 to February, 2006, however, in his CV, he he has shown the entire duration of full time doctoral study between 2001 to February, 2006, under the heading of position held in last 15 years. Therefore, he lacked the requisite experience of 15 years for being appointed as Director of the I.I.M., Rohtak.

**SUBMISSIONS OF THE LEARNED ADDITIONAL SOLICITOR
GENERAL OF INDIA, FOR THE RESPONDENT(S)-U.O.I.**

14. Before proceeding to record the elaborate submissions of the learned Additional Solicitor General, it would be significant to record at the outset that, the stand taken by the Union of India in both these writ petitions is diametrically opposite. In the writ of quo warranto, i.e. CWP-1649-2019, initially the respondent(s)-Union of India filed a reply in support of Dr. Dheeraj Sharma by taking the stand that, due procedure was followed in appointment. However, during pendency of the *lis* (supra), he was served the impugned show cause notice dated 28.03.2022,

**CWP-1649-2019 AND CWP-7608-2022****10**

thereby asking him to show cause as to why administrative and legal action should not be taken against him for deliberate non submissions of Bachelor's degree certificate and for misrepresentation of educational qualifications for securing appointment.

15. The learned Additional Solicitor General submits that, since the very inception, Dr. Dheeraj Sharma not only made material concealments with regard to his educational qualifications, but also misrepresented himself to be an eligible candidate. Moreover, now it is not under dispute from any corner that, he possesses only a second class Bachelor's degree, hence he was ineligible for being appointed to the post of Director.

16. Elaborating his above made submission, the learned Additional Solicitor General submits that, the S.C.S.C. had, in its first meeting held on 22.02.2016, shortlisted total 13 candidates, including Dr. Dheeraj Sharma, and, also recorded a specific observation that *“some of the candidates have not mentioned their class/percentage of marks obtained in Bachelor's and Master's degree examinations as required in the advertisement. Thus, it is decided to call for the relevant certifies from the above thirteen shortlisted candidates before initiating the next phase of process for selection”*. Apart from these 13 shortlisted candidates, Prof. Atanu Rakshit and Prof. S. Bhargav were also called for interview, subject to them fulfilling the eligibility criteria. Out of these two candidates, only Prof. Atanu Rakshit qualified the eligibility criteria and was accordingly

**CWP-1649-2019 AND CWP-7608-2022****11**

called for interview along with other 13 shortlisted candidates. The decision (supra) of the S.C.S.C. resulted in an e-mail dated 28.03.2016 becoming addressed to Dr. Dheeraj Sharma, thereby requesting him to provide a soft copy of his Bachelor's and Master's degree certificate with first class inasmuch as it was a pre-requisite to be considered as eligibility criteria. Similar e-mails were addressed to other candidates as well. However, when the e-mail did not reap the desired fruits, a letter dated 31.03.2016 was addressed to him, thereby requesting to attend the personal discussion along with original testimonials (Subject to the condition that he scored first class at Bachelor's and Master's level). **(emphasis supplied)**. Not only this, the requirement of submission of Bachelor's and Master's level degree with first class was reiterated time and again in every communication sent to Dr. Dheeraj Sharma but all in vain, inasmuch as, he did not furnish the requisite certificates and attended the personal discussion, thus knowingly and willfully misrepresenting the factum of his educational qualifications. This misrepresentation resulted in the S.C.S.C., in its second meeting held on 29.04.2016, recommending his name in the panel of candidates for appointment to the post of Director.

17. The next argument constructed by the learned Additional Solicitor General is that, all the shortlisted candidates, including the ones nominated for interview under the category of "nomination from eminent person", were required to fulfill the eligibility criteria prescribed in the

**CWP-1649-2019 AND CWP-7608-2022****12**

advertisement. Therefore, the contention of Dr. Dheeraj Sharma that, he did not need to fulfill the essential eligibility criteria inasmuch as the S.C.S.C. was empowered to consider the nomination received from eminent persons, is a false and misconceived contention. To lend vigour to this submission, he reiteratedly submits that, out of the two additional candidates, namely, Prof. Atanu Rakshit and Prof. S. Bhargav, who were nominated under the category of “eminent persons” and were called for interview along with the 13 shortlisted candidates, the S.C.S.C. did not find Prof. S. Bhargav to be qualifying the eligibility criteria of having first class Bachelor’s and Master’s level degree, hence he was not invited for personal discussion, and, only Prof. Atanu Rakshit was called for personal interview on account of hers fulfilling the requisite eligibility criteria.

18. The learned Additional Solicitor General next submits that, the impugned show cause notice has rightly been issued to Dr. Dheeraj Sharma inasmuch as the respondent(s)-U.O.I., being the appointing authority, is competent to take disciplinary action against him for making misrepresentation and concealment. Polishing this argument, he submits that, the entire selection process was initiated, conducted and completed by the Government of India, which culminated into approval becoming granted by the A.C.C. for appointment of Dr. Dheeraj Sharma to the post of Director, I.I.M., Rohtak, vide letter dated 10.02.2017, and, this approval was conveyed to the Chairman, Board of Governors, I.I.M., Rohtak, vide letter dated 17.02.2017. During this entire process, the

**CWP-1649-2019 AND CWP-7608-2022****13**

petitioner, not even once, applied or appeared before the Board of Governors, I.I.M., Rohtak or any other body of the I.I.M., Rohtak. Moreover, Dr. Dheeraj Sharma has, in his written statement, invariably mentioned that he was appointed by the respondent(s)-Union of India. Hence, now he cannot take a contradictory stand, and, the doctrine of estoppel estops him from changing his above stand.

19. Continuing his arguments, the learned Additional Solicitor General submits that, consequent upon receipt of notice in the writ of quo warranto (CWP-1649-2019), although the respondent(s)-U.O.I. filed a written statement to the effect that, due procedure was adopted for appointment, however, it was also specifically stated therein that, the record of Bachelor's degree of Dr. Dheeraj Sharma was not available in the Office/Department of Higher Education. He further submits that, even the Ministry of Education, vide letter dated 18.02.2021, requested Dr. Dheeraj Sharma to furnish his self-attested copies of mark-sheets, degrees and experience certificate by e-mail and also the physical copies thereof by post or by hand at the earliest. However, when no response was received, various reminders were issued but the same also did not have any impact on his ears. Not only this, the Ministry of Education wrote similar letters to the CAO, I.I.M., Rohtak, with a copy endorsed to the Chairman, Board of Governors, I.I.M., Rohtak, thereby requesting for submission of the requisite certificates by 17.12.2021, as the same were required to be furnished before this Court. In this way, on one hand, Dr.

**CWP-1649-2019 AND CWP-7608-2022****14**

Dheeraj Sharma did not furnish his Bachelor's and Master's degree with first class and on the other hand, he kept on misleading this Court by filing reply with wrong averments that he possesses the requisite educational qualifications.

20. It is further submitted that, just on the eve of completion of 5 year's directorship tenure of Dr. Dheeraj Sharma, the office of the CAO, I.I.M., Rohtak, submitted his Bachelor's degree to the Department vide e-mail dated 17.02.2022, whereupon, it finally came to light that, he never possessed a First Class Bachelor's Degree. This revelation resulted in the respondent(s)-U.O.I. rightly serving the impugned show cause notice upon Dr. Dheeraj Sharma.

21. Concluding his arguments, the learned Additional Solicitor General submits that, the petition instituted by Dr. Dheeraj Sharma against the show cause notice dated 28.03.2022 is a misconceived and premature motion inasmuch as no writ is maintainable against show cause notice. Dr. Dheeraj Sharma should subject himself to the authority of the respondent(s)-U.O.I. and raise all the pleas, as raised before this Court, before it by filing response to the show cause notice, so that an apt decision would be made thereon.

SUBMISSIONS OF THE LEARNED SENIOR COUNSEL FOR DR. DHEERAJ SHARMA (PETITIONER IN CWP-7608-2022)

22. Opening his arguments, the learned senior counsel submits that, although it is not true that, Dr. Dheeraj Sharma did not possess the

**CWP-1649-2019 AND CWP-7608-2022****15**

requisite qualifications, yet even if it is so assumed for the sake of arguments, the advertisement clearly spelt out that, candidates falling in the category of “nomination from eminent persons in the field of management/management education” are not required to possess First Class Degree at Bachelor’s and Master’s level, for being appointed as the Director, I.I.M, Rohtak. Moreover, the advertisement bestowed authority upon the S.C.S.C. to consider the nominations received from eminent person(s) even if the latter does not possess First Class Degree at Bachelor’s and Master’s level. In the present case, Dr. Dheeraj Sharma never claimed himself to be eligible on the basis of educational qualifications prescribed in the advertisement, rather his candidature, for being appointed as Director, I.I.M., Rohtak, was considered by the S.C.S.C. on the basis of nomination received from Prof. S.C. Vaidya, vide letter dated 07.05.2015, and, not on the basis of the submitted application. Prof. S.C. Vaidya was functioning as Secretary General of GGSDS College Society at the time of nomination of Dr. Dheeraj Sharma. To substantiate this fact, he places reliance upon the affidavit sworn by Prof. Vaidya, which is annexed as Annexure P-33 (in CWP-7608-2022).

23. The learned senior counsel further submits that, in the second meeting of the S.C.S.C. held on 29.04.2016, Dr. Dheeraj Sharma handed over the hard copies of his degrees to the Secretary, Department of Higher Education, and only thereafter, the S.C.S.C. recommended his name in the panel of candidates. This fact can also be inferred from the intra



departmental communications.

24. To substantiate his above made argument, the learned senior counsel makes dependence upon the minutes of the 2nd meeting of the S.C.S.C., wherein becomes enclosed a specific finding that, only after taking into account the respective resume of the candidates and their performance during the personal discussion, the panel of candidates was recommended for appointment. Not only this, he also draws attention of this Court towards the letter dated 07.12.2016 (Annexure P-17 in CWP-7608-2022), whereby, the MHRD confirmed that Dr. Dheeraj Sharma meets the eligibility requirements as on the crucial date of eligibility. Moreover, his updated CV was also enclosed with the said letter. In this way, only after being satisfied with regard to his eligibility, his name was recommended by the A.C.C. for appointment as Director, and finally, he was appointed by the Board of Governors, I.I.M., Rohtak.

25. Proceeding further with his arguments and by referring to the Memorandum of Association of I.I.M., Rohtak, the learned senior counsel submits that, the Board of Governors is the appointing authority to the post of Director, I.I.M., Rohtak, hence only it was seized with the authority to issue any show cause notice to Dr. Dheeraj Sharma. The role of the Central Government is limited only to the extent of prescribing the terms and conditions and the procedure for appointment. Moreover, as is evident from the letter dated 17.02.2017 (Annexure P-19 in CWP-7608-2022), the approval of the A.C.C. was conveyed to the Chairman, Board

**CWP-1649-2019 AND CWP-7608-2022****17**

of Governors, I.I.M., Rohtak, with the request to offer appointment to Dr. Dheeraj Sharma. Consequently, the impugned show cause notice, as issued by the respondent(s)-U.O.I., has been issued without any authority and jurisdiction, therefore is required to be interfered into by this Court.

26. Insofar as the writ of quo warranto is concerned, the learned senior counsel assails the credentials of the petitioners therein and submits that the writ of quo warranto, at their behest, is not maintainable inasmuch as they are motivated litigants and the said writ petition is a result of malice and ill will. Elaborating this argument, he submits that, Dr. Dheeraj Sharma, during his tenure as Director, terminated the services of two employees namely Mr. Nirmalya Bandhopadhyay and Mrs. Vijay Lakshmi Singh on account of their poor performance. Nurturing grudge against their termination, these employees instructed the petitioners to institute CWP-1649-2019, thereby challenging the appointment of Dr. Dheeraj Sharma. In fact, during the course of hearing of a bail application, arising out of FIR No.114 dated 18.02.2020, under Sections 406, 420 of the IPC, registered at P.S. Shivaji Colony, Rohtak, it has been admitted by Mr. Nirmalya before the JMIC, Rohtak, that he is instrumental in filing CWP-1649-2019.

27. Furthermore, by referring to the R.T.I. applications, the learned senior counsel submits that, the said applications were authored by none other than M. Chatterjee and V.K. Singh, who are wife and husband respectively of Mr. Nirmalya Bandhopadhyay and Mrs. Vijay

**CWP-1649-2019 AND CWP-7608-2022****18**

Lakshmi Singh. Moreover, the credentials of the petitioners, who instituted the writ of quo warranto (CWP-1649-2019), are highly doubtful inasmuch as the petitioner No.1, who claims himself to be an R.T.I. activist in West Bengal, and, the petitioner No.2, who claims himself to be an advocate practicing at Delhi High Court, have nothing to do with the State of Haryana or the affairs of the I.I.M., Rohtak. Consequently, the above narrated facts make it abundantly clear that, the writ of quo warranto has been filed with malice and ill will and on this score only, it is liable to be dismissed.

28. Resting his arguments, the learned senior counsel submits that, in response to a letter written by one Member of Parliament to the HRD Minister on 09.05.2018, thereby raising concern with regard to appointment of Director, I.I.M., Rohtak, the HRD Minister, through authoring Annexure P-35 (in CWP-7608-2022) made it clear that, the appointment of Director was made with the approval of A.C.C. after obtaining recommendation of the S.C.S.C. It was also clarified that, the S.C.S.C. is empowered to shortlist some of the candidates on the basis of advertisement or directly recommend candidates from their own search for selection to the post of Director. In this way, it is clear that appointment of Dr. Dheeraj Sharma as the Director, I.I.M., Rohtak, does not suffer from any illegality.

ANALYSIS OF HISTORY OF THE I.I.M. ROHTAK, AND, OF THE APPOSITE RULES/ACT

**CWP-1649-2019 AND CWP-7608-2022****19**

29. The I.I.M., Rohtak, was registered with the District Registrar of Societies, Rohtak, Haryana, on 16.11.2009. Post the coming into force of the Haryana Registration and Regulation of Societies Act, 2012 (Haryana Act No.1 of 2012), the I.I.M., Rohtak, was allotted a new registration number on 22.04.2014.

30. The Memorandum of Association of the I.I.M., Rohtak, makes vivid display that, the object of the Society was to establish and to carry on the administration and management of the Indian Institute of Management. The functions of the Society are enumerated in the hereinafter extracted Clause 3 of the Memorandum of Association. The hereinafter extracted sub-clause (i)(i) clearly voices that, the appointment to the post of Director shall be made according to such procedures and on such terms and conditions, as may be decided by the Central Government.

“3. The objects for which the Society is established are:-

(i) To establish and to carry on the administration and management of the Indian Institute of Management.

The functions of the Society shall be:-

(a) To serve the needs of business and industry, through programmes and activities developed to:

(i) Provide a steady stream of professionally competent and value-oriented management graduates;

(ii) Strengthen existing Management processes through continuing education programmes;

(iii) Contribute to national and regional policy making and to management literature;

(iv) Assist in quality improvement efforts of educational institutions especially schools of management in the (name



of the) region.

(b) To award diplomas, certificates and other distinctions to candidates trained, and to prescribe standards of proficiency before the award of such diplomas, certificates and other distinctions.

(c) To meet the needs of Indian Industry and Commerce in respect of latest information on Management through research and publication of Indian Management literature with particular reference to administrative programmes of business enterprises in the country;

(d) To assist, institute and carry out research into matters concerning the use of Management and allied techniques and methods conducive to the importance of productivity.

(e) To institute and award fellowships, scholarships, prizes and medals in accordance with the Rules and Bye-laws;

(f) To confer honorary awards and other distinctions;

(g) To fix and demand such fees and other charges as may be laid down in the Bye-laws made under the Rules of the Society;

(h) To establish, maintain and manage halls and hostels for the residence of students;

(i) To create administrative, technical and ministerial and other posts under the Society other than the post of Director of the Institute and to make appointments thereto provided that the posts so created are in the cadre and scales of pay as approved by the Central Government from time to time. The appointment to the post of Director shall be made according to such procedures and on such terms and conditions as may be decided by the Central Government;

(j) To co-operate with educational or other institutions in any part of the world having objects wholly or partly similar to those of the Society by exchange of teachers, scholars and generally in such manner as may be conducive to their common objects; and

(i) To create patronship, affiliation and other classes of



professional or honorary or technical membership or office as the Society may consider necessary.

(ii) To make Rules and Bye-laws for the conduct of the affairs of the Society and to add, to amend, vary or rescind them from time to time, with the approval of the Central Government;

(iii) To acquire and hold property, provided that the prior approval of the Central Government is obtained for acquisition of immovable property;

(iv) To deal with any property belonging to or vested in the Society in such manner as the Society may deem fit for advancing its objects, provided that prior approval of the Central Government is obtained for transfer of any immovable property;

(v) To maintain a Fund to which shall be credited:

(a) All moneys provided by the Central and the State Governments;

(b) All fees and other charges received by the Society;

(c) All moneys received by the Society by way of grants, gifts, donations, benefactions, bequests or transfers; and

(d) All moneys received by the Society in any other manner or from any other sources.

(vi) To deposit all moneys credited to the Fund in such Banks or to invest them in such manner as the Society may, with the approval of the Central Government, decide;

(vii) To meet the expenses of the Society including expenses incurred in the exercise of its powers and discharge of its functions out of the Fund;

(viii) To prepare and maintain accounts and other relevant records and to prepare an annual statement of accounts including the balance sheet of the Society in such forms as



may be prescribed by the Central Government in consultation with the Accountant General, Haryana, Chandigarh;

(ix) To forward annually to the Central Government the accounts of the Society as certified by the Comptroller and Auditor General of India or any other authority as may be decided by the Central Government;

(x) To do all such things as may be necessary, incidental or conducive to the attainment of all or any of the objects of the Society;

(xi) To constitute such Committee or Committees as it may deem fit for the disposal of any business of the Institute or for tendering advice in any matter pertaining to the Institute;

(xii) To delegate any of its powers to the Board of Governors of the Institute or any of the Committee or Committees constituted by it;

(xiii) To invest surplus research funds not needed for immediate research work in nationalized banks or Government securities or in other forms specifically approved by the Ministry of Science and Technology.”

31. The Rules adopted by the Society also hold dire significance.

Rule 4 specifies that, the general superintendence, direction and control of the affairs of the Society and its income and property shall be vested in the Governing Body of the Society, which shall be called the Board of Governors, I.I.M., Rohtak. Rule 5 prescribes the composition of the Board of Governors, while Rule 12 encloses the powers and functions of the Board of Governors. **To be precise, Rule 12(ix) stipulates that the appointment to the post of Director shall be made by the Board**



according to such procedures and on such terms and conditions as may be decided by the Central Government. Rules 4, 5 and 12 are reproduced hereunder:-

“4. The general superintendence, direction and control of the affairs of the Society and its income and property shall be vested in the Governing Body of the Society which shall be called the Board of Governors, Indian Institute of Management, Rohtak, hereinafter referred to as ‘The Board’.”

“5. The Board shall be composed of the following members:

(1) Chairman to be appointed by the Central Government.

(2 to 3) Two representatives of the Central Government, including Financial Advisor (FA,HRD) nominated by the Ministry of Human Resource Development (Department of Higher Education), Government of India.

(4 to 7) Four representatives of Industry, Commerce, Labour and the thrust area of the Institute nominated by the Central Government.

(8 to 9) Two representatives of the State Government representing its concerned Departments.

(10) Vice-Chancellor, Jawaharlal Nehru University, New Delhi.

(11) Representative of All-India Council for Technical Education (AICTE) / NCHE.

(12) A representative of the All India Management Association (AIMA).

(13) Representative of Scheduled Caste/Scheduled Tribe community, to be nominated by the Central Government.

(14 & 15) Two Professors of the Institute to be nominated by the Chairman of the Board for two years.

(16) A member co-opted by the BOGs from the Alumni.

(17) Director of the Institute (ex-officio member).”



“12. Powers and functions of the Board:

The Board shall generally pursue and carry out the objects of the Society as set forth in the MoA and in doing so shall follow and implement the policy directions and guidelines laid down by the Government of India.

The Board shall exercise all administrative and financial powers of the Society including those vested or conferred on it by or under any statute subject, nevertheless in respect of expenditure, to such limitations as the Government of India, from time to time, impose.

Subject to the provision of the Memorandum of Association and these Rules and Bye-Laws framed there under, the Board shall have the powers to:

- (i) Prepare and execute detailed plans and programmes for the establishment of the Institute and to carry on its administration and management after such establishment;*
- (ii) Receive grants and contributions and to have custody of the funds of the Institute, and to manage the properties of the Institute;*
- (iii) Prepare the budget estimates of the Society for each year, and to sanction the expenditure within the limits of the budget as approved by the Central Government;*
- (iv) Prescribe and conduct courses of study, training and research in Management and other subjects;*
- (v) Prescribe rules and regulations for the admission of candidates to the various courses of study in conformity with the policy approved in this behalf by the Central Government;*
- (vi) Lay down standard of proficiency to be demonstrated, before the award of diplomas, certificates and other distinctions in respect of the courses offered by the Institute;*
- (vii) Institute and award fellowships, scholarships, prizes and medals;*
- (viii) Provide for and supervise the residence, health, discipline*



- and the well-being of the students and employees of the Institute;*
- (ix) Create teaching, administrative, technical, ministerial and other posts Under the Institute other than the post of Director and to make appointments thereto provided that the posts so created are in the cadre and scales of pay as approved by the Central Government from time to time. The appointment to the post of Director shall be made by the Board according to such procedures and on such terms and conditions as may be decided by the Central Government;*
- (x) Co-operate with any other organization in the matter of education and training in Management and allied subjects;*
- (xi) Enter into arrangements and contracts for and on behalf of the Institute;*
- (xii) Sue and defend all legal proceedings on behalf of the Institute;*
- (xiii) Appoint Committees for the disposal of any business of the Institute or for tendering advice in any matter pertaining to the Institute;*
- (xiv) Delegate to such extent as it may deem necessary, any of its powers to any officer or Committee of the Board;*
- (xv) Consider and pass such resolutions on the annual report, the annual accounts and the financial estimates of the Society or the Institute as it thinks fit, such annual report, annual accounts and financial estimates along with the resolutions passed thereon by the Board being submitted to the Central Government through the State Government;*
- (xvi) Make, adopt, amend, vary or rescind from time to time, with the prior approval of the Central Government, Bye-laws for the regulation of, and for any purposes connected with the management and administration of the affairs of the Institute and for the furtherance of its objects;*
- (xvii) Make, adopt, amend, vary or rescind from time to time Bye-laws (a) for the conduct of the business of the Board and the*



*Committees to be appointed by it (b) for delegation of its powers or (c) for fixing the quorum; and
(xviii) Perform such additional functions and to carry out such duties as may from time to time be assigned to it by the Central and the State Government;”*

32. Post the creation of this Society and adoption of the Rules (supra), the Parliament, with an object to declare certain institutes of management to be institutions of national importance, with a view to empower these institutions to attain standards of global excellence in management, management research and allied areas of knowledge and to provide for certain other matters connected therewith or incidental thereto, enacted “The Indian Institutes of Management Act, 2017” (hereinafter referred to as the ‘Act of 2017’), which came into effect from 31.12.2017.

33. Section 4 of the Act of 2017, which is reproduced hereunder, deals with incorporation of institutes. According to this Section, on and from the commencement of this Act, every existing Institute shall be a body corporate by the same name as mentioned in column (5) of the Schedule (I.I.M., Rohtak is one of those Institutes). Moreover, every Institute shall have perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract and shall, by the said name, sue or be sued.

“4. (1) On and from the commencement of this Act, every existing Institute shall be a body corporate by the same name as mentioned in column (5) of the Schedule.

(2) Every Institute referred to in column (5) of the Schedule shall



have perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract and shall, by the said name, sue or be sued.”

34. Section 5 of the Act of 2017, which is reproduced hereunder, deals with the effect of incorporation of institutes. Sub-section (d) of this Section spells out that, every person employed by every existing Institute immediately before such commencement shall hold his office or service in the corresponding Institute, with the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension, leave, gratuity, provident fund and **other matters** as he would have held had this Act not been enacted and shall continue to do so unless and until his employment is terminated or until such tenure, remuneration and terms and conditions are duly altered by regulations.

“5. On and from the commencement of this Act,—

(a) any reference to an existing Institute in any contract or other instrument shall be deemed as a reference to the corresponding Institute;

(b) all properties, movable and immovable, of or belonging to every existing Institute shall vest in the corresponding Institute;

(c) all rights and debts and other liabilities of every existing Institute shall be transferred to, and be the rights and liabilities of, the corresponding Institute;

(d) every person employed by every existing Institute immediately before such commencement shall hold his office or service in the corresponding Institute, with the same tenure, at the same remuneration and upon the same terms and conditions and with



the same rights and privileges as to pension, leave, gratuity, provident fund and other matters as he would have held had this Act not been enacted and shall continue to do so unless and until his employment is terminated or until such tenure, remuneration and terms and conditions are duly altered by regulations:

Provided that if the alteration so made is not acceptable to such employee, his employment may be terminated by the Institute in accordance with the terms of the contract with the employee, or, if no provision is made therein in this behalf, on payment, to him by the Institute, of a compensation equivalent to three months' remuneration in case of permanent employee and one months' remuneration in the case of other employee:

Provided further that any reference, by whatever form of words, to the Director, and other officers of an existing Institute under any law for the time being in force, or in any instrument or other document, shall be construed as a reference to the Director, and other officers of the corresponding Institutes;

(e) every person pursuing, before commencement of this Act, any academic or research course in every existing Institute, shall be deemed to have migrated and registered with the corresponding Institute, on such commencement at the same level of course in the Institute from which such person migrated;

(f) all suits and other legal proceedings instituted or which could have been instituted by or against an existing Institute, immediately before the commencement of this Act, shall be continued or instituted by or against the corresponding Institute.”

35. Section 10, as encapsulated in Chapter III of the Act of 2017, deals with the authorities of institutes. According to this Section, the Board of Governors of each Institute shall be the principal executive body. Section 11 embodies the powers and functions of the Board. Section 16 displays the Director to be the Chief Executive Officer of the



CWP-1649-2019 AND CWP-7608-2022

29

Institute, who shall provide leadership to the Institute and be responsible for implementation of the decisions of the Board. Sub-section (2) of Section 16 speaks in unequivocal terms that, the Director shall be appointed by the Board, on such terms and conditions of service, as may be prescribed. Sub-section (3) dictates that, the Director shall be appointed out of the panel of names recommended by S.C.S.C to be constituted by the Board. Insofar as removal of the Director from his office is concerned, sub-section (7) bestows the said power upon the Board. Furthermore, sub-section (9) empowers the Board to, in the event of the post of Director falling vacant on account of any reason, appoint the senior-most faculty in the institution as the Director in charge till the appointment of a regular Director.

36. The relevant portions of Sections 10, 11 and 16 of the Act of 2017 are reproduced hereunder:-

“10. (1) The Board of Governors of each Institute shall be the principal executive body of that Institute.

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“11. (1) Subject to the provisions of this Act, the Board of every Institute shall be responsible for the general superintendence, direction and control of the affairs of the Institute and shall have the power to frame or amend or modify or rescind the regulations governing the affairs of the Institute to achieve the objects of the Institute specified in section 6.

(2) Without prejudice to the provisions of sub-section (1), the Board shall have the following powers, namely:—



- (a) to take decisions on questions of policy relating to the administration and working of the Institute;*
- (b) to examine and approve the annual budget estimates of the Institute;*
- (c) to examine and approve the plan for development of the Institute and to identify sources of finance for implementation of the plan;*
- (d) to establish departments, faculties or schools of studies and initiate programmes or courses of study at the Institute;*
- (e) to set-up centres of management studies and allied areas within the country under intimation to the Central Government;*
- (f) to grant degrees, diplomas and other academic distinctions or titles, and to institute and award fellowships, scholarships, prizes and medals;*
- (g) to confer honorary degrees in such manner as may be specified by the regulations;*
- (h) to grant honorary awards and other distinctions;*
- (i) to create academic, administrative, technical and other posts and to make appointments thereto:*

Provided that the cadre, the pay scales, allowances and term of employment of such posts shall be such as may be determined by the Central Government;

- (j) to determine, by regulations, the number and emoluments of such posts and to define the duties and conditions of services of the academic, administrative, technical and other staff;*
- (k) to set-up centres of management studies and allied areas outside India in accordance with guidelines laid down by the Central Government from time to time and in accordance with the provisions of the laws for the time being in force in such foreign country;*



- (l) to pay, variable pay to the Director of the Institute on the basis of performance objectives as may be specified by the regulations;*
- (m) to specify by regulations, the fees to be charged for courses of study and examinations in the Institute;*
- (n) to specify by regulations the manner of formation of department of teaching;*
- (o) to specify by regulations the institution of fellowships, scholarships, exhibitions, medals and prizes;*
- (p) to specify by regulations the qualifications, classification, terms of office and method of appointment of the academic, administrative, technical and other staff of the Institute;*
- (q) to specify by regulations the constitution of pension, insurance and provident funds for the benefit of the academic, administrative, technical and other staff;*
- (r) to specify by regulations, the establishment and maintenance of buildings;*
- (s) to specify by regulations, the conditions of residence of students of the Institute and levying of fees for residence in the halls and hostels and of other charges;*
- (t) to specify by regulations, the manner of authentication of the orders and decisions of the Board;*
- (u) to specify by regulations, the quorum for meetings of the Board, the Academic Council or any Committee, and the procedures to be followed in the conduct of their business;*
- (v) to specify by regulations, the financial accountability of the Institute; and*
- (w) to exercise such other powers and perform such other duties as may be conferred or imposed upon it by this Act or the rules made thereunder.*



(3) Subject to the provisions of this Act, the Board may by regulations, delegate such powers and functions of the Board to the Director as it may deem fit.

(4) The Board shall conduct an annual review of the performance of the Director, in the context of the achievements of objects of the Institute:

Provided that such review shall include performance reviews of faculty members of the Institute on such parameters, periodicity and terms of reference as may be determined by the Board.

(5) The Board shall, through an independent agency or group of experts, within a period of three years from the date of incorporation of the Institute, and thereafter at least once every three years, evaluate and review the performance of the Institutes, including its faculty, on the parameters of long term strategy and rolling plans of the Institutes and such other parameters as the Board may decide and the report of such review shall be placed in public domain.

(6) The qualifications, experience and the manner of selection of the independent agency or group of experts, referred to in sub-section (5), shall be such as may be specified by regulations.

(7) The report of the evaluation and review under sub-section (5) shall be submitted by the Board to the Central Government along with an action taken report thereon.

(8) Where in the opinion of the Chairperson or the Director the situation is so emergent that an immediate decision need to be taken in the interest of the Institute, the Chairperson, in consultation with the Director may issue such orders as may be necessary, recording the grounds for his opinion:

Provided that such orders shall be submitted for ratification by the Board in the next meeting.



(9) The Board shall in the exercise of its power and discharge of its functions under this Act, be accountable to the Central Government.”

“16. *(1) The Director shall be the Chief Executive Officer of the Institute and shall provide leadership to the Institute and be responsible for implementation of the decisions of the Board.*

(2) The Director shall be appointed by the Board, on such terms and conditions of service as may be prescribed.

(3) The Director shall be appointed out of the panel of names recommended by a search-cum-selection committee to be constituted by the Board, consisting of:—

(a) the Chairperson of the Board, who shall be the Chairperson of the search-cum-selection committee;

(b) three members chosen from amongst eminent administrators, industrialists, educationists, scientists, technocrats and management specialists:

Provided that where the Board is not satisfied with the recommendations of the search-cum-selection committee, it may ask the search-cum-selection committee to make fresh recommendations.

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(7) The Board may remove from office the Director, who—

(a) has been adjudged as an insolvent; or

(b) has been convicted of an offence which, in the opinion of the Board, involves moral turpitude; or

(c) has become physically or mentally incapable of acting as a Director; or

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a Director; or



(e) has so abused his position or so conducted himself as to render his continuance in office prejudicial to the public interest:

Provided that the Director shall not be removed from office except by an order made by the Board, after an enquiry instituted by it in which the Director has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

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(9) Where the post of Director falls vacant on account of any reason, the Board may appoint the senior-most faculty in the institution as the Director in charge till a regular Director is appointed:

Provided that if the senior-most faculty is not willing to hold the post of Director in charge, then the next senior-most willing faculty may be appointed as Director in charge.”

37. A conjoint reading of the hereinabove made analysis makes it abundantly clear that:-

(a) Rule 4 of the Society Rules, as adopted by the I.I.M., Rohtak, bestowed on the Governing Body/Board of Governors the general superintendence, direction and control of the affairs of the Society;

(b) Rule 12(ix) conferred authority upon the Board of Governors to make appointment to the post of Director, according to such procedures and on such terms and conditions as may be decided by the Central Government.

(c) With the promulgation of the Act of 2017, the Board



of Governor not only becomes authorized to make appointment to the post of Director, but also to initiate an inquiry and to remove the Director.

(d) Neither the Rules adopted by the I.I.M. Rohtak, nor the Act of 2017, declares the Union of India, especially the MHRD, to be the appointing authority to the post of Director.

38. The arguments made by the learned counsels for the contesting litigants and the hereinabove made analysis of the apposite statutory provisions coax this Court to formulate the following four questions for adjudication of the present *lis*.

(i) Whether the MHRD is competent to serve show cause notice to Dr. Dheeraj Singh, which is per se initiation of disciplinary inquiry against him ?

(ii) Whether the writ petition filed by Dr. Dheeraj Sharma against the impugned show cause notice is maintainable ?

(iii) Whether the S.C.S.C. recommended the name of Dr. Dheeraj Sharma for appointment to the post of Director under the category “nomination from eminent person”? If the answer is in affirmative, then whether Dr. Dheeraj Sharma was required to possess the requisite educational qualifications, as prescribed in the advertisement ?



(iv) Whether the writ of quo warranto is maintainable against Dr. Dheeraj Sharma ?

ANSWERS TO THE HEREINABOVE FRAMED QUESTIONS

Question (I): Whether the MHRD is competent to serve show cause notice to Dr. Dheeraj Singh, which is per se initiation of disciplinary inquiry against him ?

39. The Rules adopted by the Society/I.I.M. Rohtak, as also the subsequently promulgated Act of 2017, coax this Court to pen down a disaffirmative answer to the question no.(i), inasmuch as, this Court is of the opinion that, the appointing and disciplinary authority to the post of Director was/is the Board of Governors and not the MHRD. The primary reason for forming this opinion stems from Clause 3(a)(i) of the Memorandum of Association and Rule 12(ix) of the Society Rules, wherein became enclosed the undisputed mandate that, appointment to the post of Director shall be made by the Board of Governors, I.I.M., Rohtak, according to such procedures and on such terms and conditions as may be decided by the Central Government.

40. In the present case, it is not under dispute that, right from the initiation of the appointment process in March, 2015 and till the appointment of Dr. Dheeraj Sharma in February, 2017, the Rules (supra) were in force. Although the entire appointment process, whether it be issuance of the advertisement and grant of approval by the A.C.C., was conducted by the respondent(s)-Union of India, however, the final appointment was made by the Board of Governors, I.I.M., Rohtak. This

**CWP-1649-2019 AND CWP-7608-2022****37**

conclusion becomes fortified from the fact that, on 17.02.2017, the MHRD, while communicating A.C.C.'s approval, for appointment of Dr. Dheeraj Sharma as Director, to the Chairperson, Board of Governors, I.I.M., Rohtak, also requested it to convey the offer of appointment to Dr. Dheeraj Sharma. The relevant extract of the communication dated 17.02.2017 is reproduced hereunder:-

“Dear Shri Ravi Kant

D.O. No.10-2/2015/TS.V

17th February, 2017

I am pleased to inform you that the Competent Authority has approved the appointment of Dr. Dheeraj Sharma, as Director, Indian Institute of Management, Rohtak on contract basis, in the fixed pay of Rs. 80,000/- per month plus other allowances for a term of five years w.e.f. the date of assumption of charge of the post or till the attainment of the 65 years or until further orders, whichever is the earliest, on usual terms & conditions (pre-amended) as per Clause 3(i) of the Memorandum of Association and Rules of IIM Rohtak.

2. I request you to kindly convey the Offer of appointment to Dr. Dheeraj Sharma. The joining report obtained from Dr. Dheeraj Sharma, may be sent to this Ministry at the earliest along with Offer of appointment issued to him. A copy of the terms and conditions (pre-amended) of the post of Director of IIM Rohtak is annexed. Any change in terms and condition would be communicated later.

Yours sincerely

Sd/-

17/2/17

(Parveen Kumar)

*Shri Ravi Kant,
Chairperson, BoGs IIM Rohtak”*

41. In deference to the communication (supra), the Chairperson,

**CWP-1649-2019 AND CWP-7608-2022****38**

Board of Governors, I.I.M., Rohtak, issued the appointment letter dated 20.02.2017 to Dr. Dheeraj Sharma. The additional terms and conditions enclosed with the appointment letter makes vivid display that, the disciplinary authority for taking any action against the Director is the Board of Governors only. The relevant extract of the appointment letter and the relevant clauses of the additional terms and conditions are reproduced hereunder:-

“INDIAN INSTITUTE OF MANAGEMENT ROHTAK

M.D. University Campus, Rohtak, Haryana 124001

February 20, 2017

Dear Dr. Dheeraj Sharma,

I am pleased to inform you that the Competent Authority has approved your appointment as Director, Indian Institute of Management, Rohtak. On behalf of the Board and my own behalf, I convey heartiest congratulations to you.

Your appointment is on contract basis, in the fixed pay of Rs. 80,000/- per month plus other allowances for a term of five years with effect from the date of assumption of charge of the post or till the attainment of the 65 years or until further orders, whichever is the earliest, on usual terms and conditions (pre-amended) as per clause 3(i) of the Memorandum of Association and Rules of IIM Rohtak. Copy of terms and conditions are annexed herewith. Any change in terms and conditions would be communicated later.

May I please request you to kindly return the signed duplicate copy of this letter giving your consent to the appointment and also letting us know when you will be joining in order to convey the same to the Ministry of HRD.

The Institute is keenly looking forward to your joining and to your dedicated contribution to transform it as a centre of excellence.

With best wishes,



CWP-1649-2019 AND CWP-7608-2022

39

Yours faithfully,

Sd/-

(Ravi Kant)

Chairman (IIM Rohtak)

Accepted (1 March, 2017)

Sd/-

To,

Dr. Dheeraj Sharma

Professor,

IM, Wing-93, Ahmedabad.

House No. T32, IIM Ahmedabad

Contact No. 079-66324887, 9099946262

Email: dsharma@iimahd.ernet.in ”

“Additional Terms and Conditions for the Director

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13. Board of Governors of IIM Rohtak is competent and will handle any other personnel matter pertaining to Director including housing, medical facility, discipline, and perquisites.

14. For the matters not covered in these terms and conditions, the board of governors of IIM Rohtak will be competent to decide.”

42. In this way, it is abundantly clear that, the appointment of Dr. Dheeraj Sharma as Director, I.I.M., Rohtak, was made by the Board of Governors, on such terms and conditions, as decided by the Central Government and therefore, this appointment was in consonance with the procedure prescribed in the Society Rules (supra). Moreover, the Board of Governor was not only the appointing authority to the post of Director, but was also, as is evident from the terms and conditions attached with the appointment letter, conferred the powers of disciplinary authority.

**CWP-1649-2019 AND CWP-7608-2022****40**

43. Not only the Memorandum of Association and the Society Rules (supra), but the subsequently promulgated Act of 2017, which came into force on 31.12.2017, also lends vigor to the conclusion (supra) inasmuch as it also confers the appointing and disciplinary authority, in respect of the post of Director, upon the Board of Governors.

44. Reiteratedly; (i) Section 4 of the Act of 2017 declares that, on the commencement of this Act, every existing Institute shall be a body corporate by the same name as mentioned in column (5) of the Schedule attached therewith; (ii) Section 5 dictates that, all rights and debts and other liabilities of every existing Institute shall be transferred to and be the rights and liabilities of the corresponding institute. Moreover, the terms and conditions of service of every person employed by every existing Institute shall remain same, and, every such person shall have the same rights and privileges as to pension, leave, gratuity, provident fund and **other matters** (emphasis supplied); (iii) Section 16(2) encloses the unequivocal mandate that, the Director shall be appointed by the Board, on such terms and conditions of service, as may be prescribed; (iv) Section 16(7) commands that, the Director shall not be removed from office except by an order made by the Board of Governors, after an inquiry instituted by it, in which the Director has been informed of the charges against him and given reasonable opportunity of bearing heard in respect of those charges.

45. Another important statutory provision, which has not been



analyzed in the preceding paragraphs but requires its being discussed at this juncture, is enclosed in Section 17 of the Act of 2017. This Section deals with the procedure of inquiry to be held against the Institute, and, it also empowers the Board of Governors to remove the Director or take any other action deemed fit, in accordance with the inquiry report. Section 17 is reproduced hereunder:-

“17. (1) The Board may initiate an inquiry as deemed proper against the Institute which has not been functioning in accordance with the provisions and the objectives of the Act:

Provided that such an inquiry shall be conducted by a retired High Court Judge.

(2) The Board may, based on the findings of such an inquiry, remove the Director or take any other action deemed fit, and the Institute shall be bound to comply with such directions within reasonable time.”

46. In summa, the mandate clothed in the Memorandum of Association, Society Rules and the Act of 2017 leave no room for any doubt that, the appointing and disciplinary authority to the post of Director was/is the Board of Governors and not the MHRD. Consequently, this Court has no hesitation to hold that, the MHRD did not have any jurisdiction to serve the impugned show cause notice, and that, the impugned show cause notice suffers from the vice of lack of able jurisdiction. In this way, the question no. (i) is answered in negative.

(ii) Whether the writ petition filed by Dr. Dheeraj Sharma against the impugned show cause notice is maintainable ?

47. This question has arisen from the objection raised by the

**CWP-1649-2019 AND CWP-7608-2022****42**

learned Additional Solicitor General regarding maintainability of the writ petition preferred by Dr. Dheeraj Sharma against the impugned show cause notice.

48. As already held in the preceding paragraphs, the MHRD was not seized of the apposite authority and jurisdiction to serve the impugned show cause notice to Dr. Dheeraj Sharma, hence subjecting the latter to respond to it would be a sheer futile exercise. Consequently, the writ petition filed by Dr. Dheeraj Sharma against the impugned show cause notice is maintainable on this ground only.

49. The conclusion (supra) of this Court garners support from the verdict rendered by Hon'ble the Supreme Court in ***“Union of India and another Vs. Vicco Laboratories”, (2007) 13 Supreme Court Cases 270***, wherein it has been held that, ordinarily the writ court should not interfere at the stage of issuance of show cause notice, however, this rule is not without exceptions. Where a show cause notice is issued either without jurisdiction or in abuse of process of law, in that eventuality, the writ court should not hesitate to interfere even at the stage of issuance of show cause notice. The relevant paragraph of this verdict is reproduced hereunder:-

“31. Normally, the writ court should not interfere at the stage of issuance of show-cause notice by the authorities. In such a case, the parties get ample opportunity to put forth their contentions before the authorities concerned and to satisfy the authorities concerned about the absence of case for proceeding against the person against whom the show-cause notices have been issued.



Abstinence from interference at the stage of issuance of show-cause notice in order to relegate the parties to the proceedings before the authorities concerned is the normal rule. However, the said rule is not without exceptions. Where a show-cause notice is issued either without jurisdiction or in an abuse of process of law, certainly in that case, the writ court would not hesitate to interfere even at the stage of issuance of show-cause notice. The interference at the show-cause notice stage should be rare and not in a routine manner. Mere assertion by the writ petitioner that notice was without jurisdiction and/or abuse of process of law would not suffice. It should be prima facie established to be so. Where factual adjudication would be necessary, interference is ruled out.”

50. On the analogy of the law laid down in the verdict (supra), this Court is of the opinion that, it can, in exercise of its writ jurisdiction, interfere with the impugned show cause notice, which has been issued by an authority lacking the subject matter jurisdiction. This Court has made a studied survey of the impugned show cause notice, which per se reflects the premeditated mind of the authority, which drew it. It clearly reflects from the contents of the impugned show cause notice that, calling for a reply from Dr. Dheeraj Sharma is merely a formality, as the authority has already concluded that, he does not possess the requisite educational qualification, i.e. First Class degree at Bachelor's level, hence apt action is required to be taken against him. In order to avoid unnecessary augmentation of this verdict, the contents of the impugned show cause notice are not reproduced here. For that, reference can be made to the impugned show cause notice (Annexure P-31 in CWP-7608-2022).



51. It is a settled law that, when a notice is issued with premeditated mind, a writ petition is maintainable against it. Gainful reference in this regard can be made to the verdict rendered in “**Siemens Ltd. Vs. State of Maharashtra and Ors.**”, (2006) 12 Supreme Court Cases 33, relevant paragraphs whereof are reproduced hereunder:-

“9. Although ordinarily a writ court may not exercise its discretionary jurisdiction in entertaining a writ petition questioning a notice to show cause unless the same inter alia appears to have been without jurisdiction as has been held by this Court in some decisions including State of U.P. v. Brahm Datt Sharma, (1987) 2 SCC 179, Special Director v. Mohd. Ghulam Ghouse (2004) 3 SCC 440 and Union of India v. Kunisetty Satyanarayana, 2006 (12) Scale 262, but the question herein has to be considered from a different angle, viz. when a notice is issued with premeditation, a writ petition would be maintainable. In such an event, even if the courts directs the statutory authority to hear the matter afresh, ordinarily such hearing would not yield any fruitful purpose [See K.I. Shephard v. Union of India (1987) 4 SCC 431]. It is evident in the instant case that the respondent has clearly made up its mind. It explicitly said so both in the counter affidavit as also in its purported show cause.

10. The said principle has been followed by this Court in V.C., Banaras Hindu University v. Shrikant [(2006) 11 SCC 42], stating: (SCC p. 60, paras 48-49)

“48. The Vice Chancellor appears to have made up his mind to impose the punishment of dismissal on the respondent herein. A post decisional hearing given by the High Court was illusory in this case.

49. In K.I. Shephard v. Union of India, this Court held : (SCC p. 449, para 16)



‘It is common experience that once a decision has been taken, there is a tendency to uphold it and a representation may not really yield any fruitful purpose.’”

11. A bare perusal of the order impugned before the High Court as also the statements made before us in the counter affidavit filed by the respondents, we are satisfied that the statutory authority has already applied its mind and has formed an opinion as regards the liability or otherwise of the appellant. If in passing the order the respondent has already determined the liability of the appellant and the only question which remains for its consideration is quantification thereof, the same does not remain in the realm of a show cause notice. The writ petition, in our opinion, was maintainable.

12. For the reasons aforementioned, the impugned judgment cannot be sustained which is set aside accordingly. The appeal is allowed and the matter is remitted to the High Court for its consideration afresh on its own merits. No costs.”

52. Moreover, Hon’ble the Supreme Court has, while rendering the verdict in **“Techno Prints Vs. Chhattisgarh Textbook Corporation and another”**, 2025 SCC OnLine SC 343, penned down the following observations:-

“36. In the overall view of the matter more particularly in the peculiar facts of the case, we have reached the conclusion that asking the appellant herein to file his reply to the show cause notice and then await the final order which may perhaps go against him, leaving him with no option but to challenge the same before the jurisdictional High Court will be nothing but an empty formality. Even otherwise, issuing of show cause notice if not always then at least most of the times is just an empty formality because at the very point of time the show cause notice is issued



the Authority has made up its mind to ultimately pass the final order blacklisting the Contractor. In other words, the show cause notice in most of the cases is issued with a pre-determined mind. It has got to be issued because this Court has said that without giving an opportunity of hearing there cannot be any order of blacklisting. To meet with this just a formality is completed by the Authority of issuing a show cause notice.”

53. In view of the ratio of law laid down by Hon’ble the Supreme Court in the verdicts (supra), this Court does not find any merit in the objection raised by the learned Additional Solicitor General. The writ petition filed by Dr. Dheeraj Sharma against the impugned show cause notice, which has been issued with a premeditated mind by an authority lacking the able authority and jurisdiction, is held to be maintainable. In this way, the question no. (ii) is answered in affirmative.

(iii) Whether the S.C.S.C. recommended the name of Dr. Dheeraj Sharma for appointment to the post of Director under the category “nomination from eminent person”? If the answer is in affirmative, then whether Dr. Dheeraj Sharma was required to possess the requisite educational qualifications, as prescribed in the advertisement ?

54. The cause for inscribing an affirmative and a dis-affirmative answer respectively on the former and latter portion of the question no. (iii) is embedded in the advertisement, minutes of meeting of the S.C.S.C. and the intra departmental communications. The reasons for drawing this inference are elaborated hereinafter.

55. The advertisement issued for appointment to the post of



Director, I.I.M., Rohtak, declared in unequivocal terms that:-

(a) applications are invited from distinguished professionals and academic administrators having at least 15 years teaching/research experience in reputed institutions, experience in national building and who are passionate about building a premier institution;

(b) applicants should have outstanding academic credentials throughout, including a Ph.D Degree from a reputed institution with First Class degree at Bachelor's and Master's level;

(c) Director will be appointed after obtaining approval of the A.C.C. based on the recommendations made by the S.C.S.C.;

(d) S.C.S.C. will consider applications fulfilling the above criteria received in response to this advertisement as well as nomination received from eminent persons in the field of management/management education. (emphasis supplied)

56. The relevant portion of the advertisement is reproduced hereunder:-

“Applications are invited from distinguished professionals and academic administrators having at least 15 years teaching/research experience in reputed institutions, experience in institution-building and who are passionate about building a premier institution that reflects the talent, energy and potential of an emergent India.

The applicants should have outstanding academic credentials



throughout, including a Ph.D Degree from a reputed institution with First Class degree at Bachelor's and Master's level.

The position is based at Rohtak (Haryana) within the National Capital Region, approximately a two-hour drive from New Delhi.

The Director will be appointed after obtaining approval of the Appointments Committee of Cabinet (ACC) based on the recommendations made by a Search-cum-Selection Committee (SCSC). The SCSC will consider applications fulfilling the above criteria received in response to this advertisement as well as nomination received from eminent persons in the field of management/management education.”

57. The advertisement makes it clear that, apart from its becoming bestowed with the authority to consider the applications fulfilling the prescribed eligibility criteria, the S.C.S.C. was also bestowed with the element of relaxation to appoint any person, who did not even possess the prescribed educational qualification, to the post of Director, by considering his/her nomination from “eminent person”.

58. The S.C.S.C., in its first meeting held on 22.02.2016, examined all the 59 applications vis-a-vis the following three broad parameters:-

(a) Academic Qualifications

(b) Professional Experience

(c) Administrative Experience

59. After examining the qualifications prescribed in the advertisement and the individual data of each of the candidates, only 13 candidates, including Dr. Dheeraj Sharma, were shortlisted by the S.C.S.C. for personal interview. Moreover, since some of the candidates

**CWP-1649-2019 AND CWP-7608-2022****49**

did not mention their class/percentage of marks obtained in Bachelor's and Master's degree examinations, as required in the advertisement, hence the S.C.S.C decided to call the relevant certificates from all the 13 shortlisted candidates. Following this decision, the MHRD wrote e-mail dated 28.03.2016 to Dr. Dheeraj Sharma to provide the soft copy of his Bachelor's and Master's degree with first class.

60. According to the learned senior counsel for Dr. Dheeraj Sharma, the e-mail (supra) was responded by Dr. Dheeraj Sharma, vide e-mail dated 30.03.2016, wherewith he enclosed all his degrees, however, this fact is disputed by the respondent(s)-U.O.I.

61. Nonetheless, the MHRD, vide letter dated 31.03.2016, informed Dr. Dheeraj Sharma that, (i) since he did not mention the class/division secured at Bachelor's and Master's level; and (ii) since he did not provide the soft copy of his certificates despite the request enclosed in e-mail dated 28.03.2016; hence he was requested to attend the personal discussion along with original testimonials, subject to the condition that he scored first class at Bachelor's and Master's level. The relevant extract of the letter dated 31.03.2016 is reproduced hereunder:-

“2. On scrutiny of your application the Committee has found that you have not mentioned the class/division secured at your Bachelor's and Master's level examination. You have also been requested vide email dt. 28.03.2016 to provide scanned copies of certificates in this regard but the same has not received.

3. Accordingly, you are requested to attend the Personal

**CWP-1649-2019 AND CWP-7608-2022****50**

Discussion as per the above schedule along with original testimonials. (Subject to the condition that you scored first class at Bachelor's and Master's level)”

62. It would be apt to record here that, apart from the 13 shortlisted candidates, the S.C.S.C. decided to call one Prof. Atanu Rakshit and one Prof. S. Bhargav also for interview, subject to them fulfilling the eligibility criteria. However, out of these two additional candidates, only Prof. Atanu Rakshit satisfied the criteria and was called for interview, whereas, Prof. Bhargav did not qualify the eligibility criteria of having first class at Bachelor's and Master's level and was not invited for interview.

63. When Dr. Dheeraj Sharma and other shortlisted candidates caused appearance before the S.C.S.C. as per the given schedule, the latter in its second meeting held on 29.04.2016, after considering the respective resume of the former and their performance during personal discussion, recommended the panel of candidates, comprising of Dr. Dheeraj Singh, for appointment to the post of Director. The relevant extract of the S.C.S.C.'s second meeting is reproduced hereunder:-

“6. After considering all the candidates who appeared in the personal discussion and taking into account their respective resume and their performance during the personal discussion, the Committee unanimously recommend the following panel of candidates for appointment in the post of Director IIM Rohtak in order of merit.

(i) *Dr. Bharat Bhasker*



(ii) *Dr. Dheeraj Sharma*

(iii) *Dr. B.S. Sahay*”

64. From the above, this Court can ably infer that, the MHRD and the S.C.S.C. were well aware of the fact that, Dr. Dheeraj Sharma did not submit his Bachelor's/Master's level degree at the first instance, which resulted in him being called for personal discussion along with all the original testimonials. Moreover, there is no wrangle amongst the contesting litigants that, Dr. Dheeraj Sharma did not possess first class Bachelor's degree, yet the recommendation of his name for Directorship by the S.C.S.C., based on consideration of his resume, clearly speaks in volume that, it was recommended absolutely under the category “nomination from eminent person”. This can be clearly inferred from the intra departmental communications.

65. The MHRD, along with its letter dated 16.11.2016, wherethrough, request for approval of A.C.C. for appointment of Dr. Dheeraj Sharma as Director was made, also attached the necessary information in the prescribed proforma. In Column No.11 of the said proforma, which carries the heading “Recruitment Rules/Job specifications”, it was specifically mentioned that no specific requirement laid down. The relevant portion of the letter dated 16.11.2016, and, of the proforma (supra) is reproduced hereunder:-

“7. After going through the recommendations of Selection Committee, Hon'ble Human Resource Development Minister has recommended the name (at S.No. 2) of Dr. Dheeraj Sharma for



appointment as Director, IIM Rohtak. Prof. Bharat Bhasker (Candidate at S.No. 1 in the panel recommended by SCSC) has already been recommended as Director of IIM Raipur and may not be considered again. Copy of approval given by Hon'ble HRM in respect of Dr. Dheeraj Sharma is enclosed as Annexure-I.”

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“11. Recruitment Rules/Job specifications:-

(i) Not normally laid down. However, the Search Committee followed the following broad criteria for shortlisting:

(a) Academic Qualification;

(b) Professional Experience;

(c) Administrative Experience;

(ii) For Selection, the SCSC took into account the respective resume and the performance of the candidates during personal discussion.”

66. Subsequently, vide letter dated 07.12.2016, the DoPT, which had to act as Nodal Agency for A.C.C., while considering the proposal for appointment of Dr. Dheeraj Sharma as the Director, I.I.M., Rohtak, posed a specific query to the MHRD, as to whether Dr. Dheeraj Sharma meets the eligibility requirements for the post as on the crucial date of eligibility inasmuch as the requisite column was left blank. This query was answered in affirmative by the MHRD, vide letter dated 07.12.2016. The affirmative response of the MHRD, as enclosed in the letter dated 07.12.2016, is reproduced hereunder:-

“Dear Shri Rajeev Kumar

D.O. No.10-2/2015/TS.V

Dated the 7th December, 2016

1. Please refer to this Department's proposal seeking



approval of ACC for appointment to the post of Director, Indian Institute of Management (IIM) Rohtak sent vide O.M. of even number dated 16th November, 2016.

2. *The information given against Column 9 at Appendix-I (particulars of the officer proposed to be appointed) may be read as YES, as the candidate being recommended (Dr. Dheeraj Sharma) meets the eligibility requirements as on the crucial date of eligibility. This was inadvertently missed in the proforma.*

3. *The updated CV of Dr. Dheeraj Sharma is also enclosed.”*

67. Therefore, the main issue raised by the learned Additional Solicitor General that, Dr. Dheeraj Sharma made wilful misrepresentation by concealing his original bachelor's degree does not find support from the hereinabove reproduced intra departmental communications. Moreover, he never claimed himself to be possessing first class degree at bachelor's and master's level. Resultantly, in totality, this Court can infer that, his candidature was considered by the S.C.S.C. on the basis of: (a) Academic Qualifications; (b) Professional Experience; and (c) Administrative Experience. This conclusion also derives strength from the fact that, one Member of Parliament racked up this issue with the HRD Minister on 09.05.2018 and the latter, through authoring Annexure P-35 (in CWP-7608-2022) made it clear that, the appointment of Director was made with the approval of A.C.C. after obtaining recommendation of the S.C.S.C. It was also clarified that, the S.C.S.C. is empowered to shortlist some of the candidates on the basis of advertisement or directly recommend candidates from their own search for selection to the post of



Director. The specific stand taken by the HRD Minister is reproduced hereunder:-

“Please refer your letter dated 09.05.2018 regarding irregularities in the appointment of Director, IIM Rohtak. I have got the matter examined. The appointment of Director is made with the approval of ACC after obtaining recommendation of Search-cum-Selection Committee constituted for purpose. The SCSC is empowered to shortlist some of the candidates applied on the basis of advertisement or directly recommend candidates from their own search for selection to the post of Director. Accordingly, the SCSC for IIM Rohtak recommended a panel of three names on the basis of personal discussion with the shortlisted candidates.

2. The panel of names was then submitted for final approval of ACC.

2. You will appreciate to note that all efforts are made to ensure 100% transparency in the process of selection for appointment to the post of Director in any of the institutes under my Ministry including IIMs.”

68. The above reasoning makes it clear that, for appointment to the post of Director, the S.C.S.C. was, besides its becoming empowered to recommend the names of candidates shortlisted on account of their possessing the advertised eligibility criteria, equally empowered to recommend in the panel of candidates the names of those candidates nominated from “eminent persons”.

69. In summa, this Court is of the opinion that, the S.C.S.C. recommended the name of Dr. Dheeraj Sharma for appointment to the post of Director under the category “nomination from eminent person”,



and that, the S.C.S.C. was well empowered to do so. This question is answered accordingly.

(iv) Whether the writ of quo warranto is maintainable against Dr. Dheeraj Sharma ?

70. Before evincing any opinion upon this question, it is deemed imperative to capture the legal understanding with regard to the writ of “quo warranto”.

71. The maxim “quo warranto” means “by what authority”. The basic object behind issuing such writ is to prevent a usurper from wrongfully occupying a substantive public office. The nature, object and the circumstances, in which such writ can be issued, have been explained by Hon’ble the Supreme Court and by the Division Bench of this Court in various judicial precedents, which are delved into hereinafter.

72. In the verdict rendered in case titled as ***“The University of Mysore and another Vs. C.D. Govinda Rao and another”***, [1964] 4 SCR 575, Hon’ble the Supreme Court has held that, the proceedings of quo warranto is to protect the public from usurpers of public office, and that, a person, who claims the writ of quo warranto, has to satisfy the Court that the office in question is a public office and is held by a usurper without legal authority. In that eventuality, an enquiry is to be held as to whether the appointment of the alleged usurper has been made in accordance with law or not. The relevant observations embodied in the verdict (supra) are reproduced hereunder:-



“As Halsbury has observed:

“An information in the nature of a quo warranto took the place of the obsolete writ of quo warranto which lay against a person who claimed or usurped an office, franchise, or liberty, to inquire by what authority he supported his claim, in order that the right to the office or franchise might be determined.”

Broadly stated, the quo warranto proceeding affords a judicial remedy by which any person, who holds an independent substantive public office or franchise or liberty, is called upon to show by what right he holds the said office, franchise or liberty, so that his title to it may be duly determined, and in case the finding is that the holder of the office has not title, he would be ousted from that office by judicial order. In other words, the procedure of quo warranto gives the Judiciary a weapon to control the Executive from making appointment to public office against law and to protect a citizen from being deprived of public office to which he has a right. These proceedings also tend to protect the public from usurpers of public office, who might be allowed to continue either with the connivance of the Executive or by reason of its apathy. It will, thus, be seen that before a person can effectively claim a writ of quo warranto, he has to satisfy the Court that the office in question is a public office and is held by a usurper without legal authority, and that inevitably would lead to the enquiry as to whether the appointment of the alleged usurper has been made in accordance with law or not.”

73. The Division Bench of this Court also had an occasion to deal with the issue of quo warranto in case titled as **“Dinesh Bagga Vs. State of Punjab and others”**, 2012(4) R.C.R. (Civil) 112. The Division Bench held that, the writ of quo warranto confers power upon the Court to examine whether a person occupying a public office is legally qualified or not to hold such office or has been appointed in violation of the statutory

**CWP-1649-2019 AND CWP-7608-2022****57**

provision that governs his appointment. It was also held that, the Court may refuse to issue the writ of quo warranto where (i) the petition is vexatious; (ii) the appointment suffers from a curable defect; (iii) the petition is actuated by ill-will, malice or an ulterior motive, or, the person, who approaches the Court, has been set up by someone else with an ulterior/malicious motive to settle scores etc. The relevant observations of the Division Bench are reproduced hereunder:-

“9. Before we proceed to adjudicate the present controversy on merits, it would be appropriate to refer to the nature of a writ of quo warranto, in brief. A writ of quo warranto confers power upon a High Court to examine whether a person occupying a public office is legally qualified or not to hold office or has been appointed in violation of the statutory provision that governs his appointment. A writ of quo warranto will only issue where there is a clear and manifest infringement of legal conditions or procedure prescribed for appointment to a public office. Thus, if the occupant of a public office is found to be ineligible for holding such an office or there is an incurable defect in the procedure adopted for his appointment, a writ of quo warranto may issue to unseat such a person. A court seized of a prayer for issuance of a writ of quo warranto, may refuse to issue such a writ where the petition is vexatious, the appointment suffers from a curable defect, the petition is actuated by ill-will, malice or an ulterior motive or the person, who approaches the court has been set up by someone else with an ulterior/malicious motive to settle scores etc. A writ of quo warranto may be issued at the instance of any person whether any fundamental or any other legal right of such person has been infringed or not. A petitioner, who does not seek to enforce any personal right or claim the performance of any duty towards him, may call upon the court to declare that an



ineligible person has usurped a public office. The fact that the petitioner is not a candidate is insufficient to reject a prayer for issuance of a writ in the nature of quo warranto. A writ of quo warranto is an exception to the general rule that only an aggrieved person may apply under Article 226. Having set out, though in brief, the nature of a writ of quo warranto, we would now proceed to deal with the controversy on merits.”

74. The term “public office” has been extensively considered by Hon’ble the Supreme Court in case titled as “***B. Srinivasa Reddy Vs. Karnataka Urban Water Supply & Drainage Board Employees’ Association and others***”, 2006(4) SCT 268. The relevant portion of the verdict in this case is extracted hereinafter:-

“....Black's Law Dictionary defines public office as under:

*“Public Office: Essential characteristics of "public office" are (1) authority conferred by law, (2) fixed tenure of office, and (3) power to exercise some portion of sovereign functions of government, key element of such test is that "officer" is carrying out sovereign function. **Spring v. Constantino 168 Conn. 563, 362 A. 2d 871, 875.9** Essential elements to establish public position as "public office" are position must be created by Constitution, legislature or through authority conferred by legislature, portion of sovereign power of Government must be delegated to position, duties and power must be delegated to position, duties and powers must be defined, directly or impliedly, by legislature or through legislative authority, duties must be performed independently without control or superior power other than law, and position must have some permanency and continuity, **State ex rel. E.li Lilly & Co. v. Gaertner, Mo. App 619 S.W. 2d 6761, 764.**”*



Carrying out sovereign function by the Board and delegation of a portion of sovereign power of Government to the Managing director of the Board and some permanency and continuity in the appointment are quintessential features of public office. Every one of these ingredients are absent in the appointment of the appellant as Managing Director of the Board. This aspect of the matter was completely lost sight of by the High Court.....”

75. Also, in **“J. Jeyakumaran Vs. The Chancellor Universities in Tamil Nadu Raj Bhavan and others”**, 2015 LIC 1392, Hon’ble the Supreme Court considered the scope of the writ of quo warranto and held that, it cannot be invoked for a roving and fishing enquiry to find some reason or other to unseat any office bearer. The relevant paragraph of the verdict rendered in case (supra) is reproduced hereunder:-

“14. It cannot be a purpose of the Writ of Quo Warranto to carry out a roving enquiry to find some reason or other to unseat the 8th respondent from his post at the behest of the petitioner. In fact, the petitioner, on our query, we were informed, is not even the alumni of this University and certainly does not have any special interest in this University. We, however, hasten to add that of course, in a writ of Quo Warranto, that may not be really relevant, but this is only to state that the reason why the petitioner has approached this Court by the Writ of Quo Warranto without making requisite enquiry and by making allegations against the 8th respondent even about his expertise in performance, is a question mark on the motive for the same.”

76. The Co-ordinate Bench of this Court, through its drawing the verdict in case titled as **“Parveen Kumar Vs. State of Punjab and others”**, CWP No. 23267 of 2017, Decided on: 11.04.2023, observed that, the writ of quo warranto is not a means to impugn a decision merely



on an improper exercise of a lawful authority but the act aggrieved of must be without authority. The person bringing about a challenge should display a legal wrong and prejudicial affect by an act or omission of the authority. The relevant observations enclosed in the verdict (supra) are extracted hereinafter:-

“49. A writ in the nature of quo warranto is not to be invoked merely because of an allegation that there is an improper exercise of a lawful authority. It gets attracted when an authority exercises a power it does not wield. The distinction is fine but real. The allegation leveled in the present case revolve around undue exercise of discretion and relaxation by the State. Vesting of such power thus is not disputed. Considering the totality of circumstances noticed above, I am of the view that:-

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viii) A writ of a quo warranto is not a means to impugn a decision merely on an improper exercise of a lawful authority but the act aggrieved of must be without authority. A legal wrong should in other case of challenge exist for maintaining the cause, a legal wrong requires existence of a judicially enforceable right distinct from a nominal or highly speculative adverse affect on the interest of a person. The person bringing about a challenge should display a legal wrong and prejudicial affect (distinct from speculative; nominal or remote affect) by an act or omission of the authority, even if he has no fiduciary or proprietary interest.

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77. Now, let’s examine the present question on the anvil of the above legal propositions.

78. It is not under dispute that, the office occupied by Dr. Dheeraj Sharma falls within the ambit of “public office”. Therefore, this

**CWP-1649-2019 AND CWP-7608-2022****61**

Court has to examine as to whether he has been appointed against any statutory provisions, or, he does not fulfill the eligibility criteria to hold such office.

79. As held in the judicial precedents (supra), the writ of quo warranto can be invoked to unseat a person, who has usurped a public office without legal authority. In the present case, there is no wrangle amongst the contesting litigants that, the impugned (initial) directorship tenure has already completed on 19.02.2022 and now the writ of quo warranto cannot be issued as the person has already demit his office on account of completion of his tenure. Hence even on this sole account, the present writ of quo warranto cannot be invoked by the petitioners. Nonetheless, this Court has already, in the preceding paragraphs, penned down a dis-affirmative answer on this question on merits also.

80. This Court cannot sit as an appellate authority over the decision and wisdom of the S.C.S.C. To reach at this conclusion, this Court garners support from the verdict rendered by Hon'ble the Supreme Court in "*Dalpat Abasaheb Solunke and others Vs. Dr. B.S. Mahajan and others*", (1990) 1 SCC 305. The relevant portion of the verdict (supra) is reproduced hereunder:-

"..It is not the function of the court to hear appeals over the decisions of the Selection Committees and to scrutinise the relative merits of the candidates. Whether a candidate is fit for a particular post or not has to be decided by the duly constituted Selection Committee which has the expertise on the subject. The court has no such expertise. In the present case the University



had constituted the Committee in due compliance with the relevant statutes. The Committee consisted of experts and it selected the candidates after going through all the relevant material before it. In sitting in appeal over the selection so made and in setting it aside on the ground of the so called comparative merits of the candidates as assessed by the court, the High Court went wrong and exceeded its jurisdiction.”

81. Furthermore, the credentials of the petitioners, who instituted the writ of quo warranto (CWP-1649-2019), are also under question. The reason being that, the information gathered under the R.T.I. Act was gathered by none other than M. Chatterjee and V.K. Singh, who are wife and husband respectively of Mr. Nirmalya Bandhopadhyay and Mrs. Vijay Lakshmi Singh, against whom Dr. Dheeraj Singh took departmental action. Therefore, it appears that, the petitioners are only the front faces of the above two disgruntled erstwhile employees of I.I.M., Rohtak, whose services were terminated by Dr. Dheeraj Sharma.

82. Although *locus* is not a material issue for invoking the writ of quo warranto, however, it cannot also be allowed to be invoked to settle scores, specifically in the present circumstances when the impugned directorship tenure is already over. In ***B. Srinivasa Reddy's case (supra)***, Hon'ble the Supreme Court, while referring to its judgment rendered in ***"A.N. Sashtri V. State of Punjab and others"***, (1988) Supp SCC 127, reinforced that, an imposture coming before Court invoking public law remedy at the hands of a Constitutional Court suppressing material facts has to be dealt with firmly. The relevant observations to the above effect,



as recorded in *B. Srinivasa Reddy's case (supra)*, are reproduced hereunder:-

“48. The judgment impugned in this appeal not only exceeds the limit of Quo Warranto but has not properly appreciated the fact that writ petition filed by the Employees' Union and the President of the Union - Halakatte was absolutely lacking in bonafides. In the instant case, the motive of the second respondent Halakatte is very clear and the Court might in its discretion declined to grant a Quo Warranto.

49. This Court in A.N. Sashtri vs. State of Punjab and Others, (1988) Supp SCC 127 held that the Writ of Quo Warranto should be refused where it is an outcome of malice or ill-will. The High Court failed to appreciate that on 18.01.2003 the appellant filed a criminal complaint against the second respondent Halakatte that cognizance was taken by the criminal court in CC No. 4152 of 2003 by the jurisdictional magistrate on 24.02.2003, process was issued to the second respondent who was enlarged on bail on 12.06.2003 and the trial is in progress. That apart, the second respondent has made successive complaints to the Lokayukta against the appellant which were all held to be baseless and false. This factual background which was not disputed coupled with the fact that the second respondent Halakatte initiated the writ petition as President of the 1st respondent Union which had ceased to be a registered trade union as early as on 02.11.1992 suppressing the material fact of its registration having been cancelled, making allegations against the appellant which were no more than the contents of the complaints filed by him before the Authorities which had been found to be false after thorough investigation by the Karnataka Lokayukta would unmistakably establish that the writ petition initiated by the respondent Nos. 1 and 2 lacked in bonafides and it was the outcome of the malice and ill-will the 2nd respondent nurses against the appellant.



Having regard to this aspect of the matter, the High Court ought to have dismissed the writ petition on that ground alone and at any event should have refused to issue a Quo Warranto which is purely discretionary. It is no doubt true that the strict rules of locus standi is relaxed to an extent in a Quo Warranto proceedings. Nonetheless an imposture coming before the Court invoking public law remedy at the hands of a Constitutional Court suppressing material facts has to be dealt with firmly.

50. This Court in Dr. B. Singh vs. Union of India and Others, (2004) 3 SCC 363 held that only a person who comes to the Court with bonafides and public interest can have locus. Coming down heavily on busybodies, meddlesome interlopers, wayfarers or officious interveners having absolutely no public interest except for personal gain or private profit either of themselves or as a proxy of others or for any other extraneous motivation or for glare of publicity, this Court at para 14 of the report held as under:-

“The court has to be satisfied about: (a) the credentials of the applicant; (b) the prima facie correctness or nature of information given by him; and (c) the information being vague and indefinite. The information should show gravity and seriousness involved. Court has to strike a balance between two conflicting interests: (i) nobody should be allowed to indulge in wild and reckless allegations besmirching the character of others; and (ii) avoidance of public mischief and to avoid mischievous petitions seeking to assail, for oblique motives, justifiable executive actions. In such case, however, the court cannot afford to be liberal. It has to be extremely careful to see that under the guise of redressing a public grievance, it does not encroach upon the sphere reserved by the Constitution to the executive and the legislature. The court has to act



ruthlessly while dealing with imposters and busybodies or meddlesome interlopers impersonating as public spirited holy men. They masquerade as crusaders of justice. They pretend to act in the name of pro bono publico, though they have no interest to the public or even of their own to protect.”

83. Although the petitioners (in CWP-1649-2019) have also raised questions about the 15 years' experience claimed to be possessed by Dr. Dheeraj Sharma, and, also submitted before this Court that his Bachelor's/Master's and MBA degrees are surrounded by suspicious circumstances, however, such plea is not substantiated by any cogent evidence, viz., any inputs from the respective Universities or Colleges depicting that his Bachelor's/Master's and MBA degrees are forged and fabricated. Merely because some suspicion has been cast, it does not act for this Court to, in exercise of writ of quo warranto, order a roving and fishing enquiry. Precisely, the above is not the scope of the writ of quo warranto. The Hon'ble Supreme Court has, in **J. Jeyakumarán's case (supra)**, clearly held that, it cannot be a purpose of the Writ of Quo Warranto to carry out a roving enquiry to find some reason or other to unseat any office bearer.

84. In summa, this Court is of the opinion that, the present writ of quo warranto is not maintainable against Dr. Dheeraj Sharma, as he validly assumed the office of Director, I.I.M., Rohtak, post his selection/recommendation by the S.C.S.C. under the category "nomination from eminent person". In this way, question no. (iv) is answered in negative.



CWP-1649-2019 AND CWP-7608-2022

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FINAL ORDER

85. In view of the above, the writ of quo warranto (CWP-1649-2019) is dismissed, and, the writ (CWP-7608-2022) preferred by Dr. Dheeraj Sharma against the impugned show cause notice is allowed. The impugned show cause notice is set aside on account of its being issued by an authority lacking able jurisdiction.

86. Pending application(s) stand disposed of accordingly.

87. A photocopy of this order be placed on file of each connected case.

April 22, 2025
devinder

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No