

\$~11

* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: 28th February, 2023

+ W.P.(C) 848/2023 and CM APPL. 3296/2023

MR. UMESH GUPTA

..... Petitioner

Through: Mr. Ashok Agarwal, Mr. Kumar
Utkarsh & Mr. Manoj Kumar,
Advocates (M- 9811101923)

versus

REGISTRAR GENERAL DELHI HIGH COURT

& ANR.

..... Respondents

Through: Dr. Amit George, Mr. Amol Acharya,
Mr. Rayadurgam Bharat, Mr. Piyo
Harold Jaimon and Mr. Arkaneil
Bhaumik, Advocates for R-1 & 2. (M:
8860875882)**CORAM:****JUSTICE PRATHIBA M. SINGH****ORDER**

%

28.02.2023

1. This hearing has been done through hybrid mode.
2. In the present petition, the Petitioner- Shri Umesh Gupta challenges the fixation of qualification of minimum eligibility requirement of net declared professional income of Rs. 6 lakhs, in the financial years ending 31st March, 2021 and 31st March, 2022 for the purpose of undertaking the 40-hour training programme on the 'Concept and Techniques of Mediation'. The said training programme is being organized for 75 advocates and the notification for the same was published on 23rd December, 2022 by the Office of the Judge In-Charge, Delhi Mediation Centre, Tis Hazari Courts, Delhi.

3. According to Mr. Aggarwal, Id. Counsel for the Petitioner, the fixation of the eligibility criteria of Rs.6 lakhs as minimum net declared professional income for the past 2 financial years, is not part of the Mediation and Conciliation Rules, 2004 and therefore, is contrary to the law itself.

4. On 23rd January, 2023, a short affidavit was directed to be filed by the Respondents.

5. The counter affidavit dated 9th February 2023 on behalf of the Respondent No.2, Judge-in-charge, Delhi Mediation Centre has been placed on record as per which, the initial criteria for the training was recommended on 15th November, 2010 by the *Monitoring Committee to oversee the functioning of all District Mediation Centres in Delhi* ('Monitoring Committee'). The said meeting was held on 15th November, 2010 and the minutes of the said meeting dated 24th November 2010 reads as under:

"1. Meetings should be held with the Judges of all District Courts to identify new areas where mediation can help in expeditious disposal and settlement of cases,

2.1 A fresh batch of advocates should be imparted training to be inducted as trained mediators. The last batch of advocate-me trained about 4-5 years back (except in Dwarka courts where advocates were trained on mediation about a year back, when mediation centre was opened).

*2.2 In order to **enroll sincere and serious advocates and to curtail number of applications**, the Committee recommends that the following criteria should be adopted :-*

i. Advocate should have minimum ten years experience (as prescribed under the Rules).

ii. The net declared professional income of the advocate should be more than Rs.3 lacs per annum in the previous year ending 31st March, 2009/31 March, 2010.

iii. Advocates practicing in all courts will be eligible.

iv. Selection of the advocates, who meet the aforesaid eligibility criteria will be done by drawn of lots.

v. It is proposed that 20% of the advocates meeting the aforesaid minimum eligibility criteria will be selected from those who have participated in atleast two mediation programmes conducted by the District Mediation Centres or by the Delhi High Court Mediation Cell.

2.3 The advocates will be also required to pay Rs.3000/- towards part of the cost and expenses for the training.

3. District Mediation Centre, Dwarka does not have Judge Mediators. Advocate Mediators are new, as the said Centre has started functioning recently. Mr. Deepak Jagotra, Additional Sessions Judge (Electricity) has been appointed as Judge In-Charge of District Mediation Centre, Dwarka but he is also handling normal regular judicial work. The Committee feels that it may be desirable that five other Judges who are presently working in District Court, Dwarka and who have already undergone 40 hrs mediation training may be deputed as judge mediators and asked to spend atleast one-two hours once a week in the Mediation Centre. The Committee also feels that a Judge should be present in the Mediation Centre when mediation process is being undertaken.”

6. As per the above criteria which was recommended through minutes of the meeting dated 15th November 2010, ten years of experience and an income criterion was also prescribed. Further, as per the counter affidavit,

subsequently, vide the letter dated 6th December, 2022 received from the office of Respondent No. 1, it was intimated that the High court had approved the minimum income requirement proposed by the Respondent No.2, which was adopted as a criteria for the Mediation Training Programme.

7. It is submitted by Dr. Amit George, Id. Counsel for Respondent No.2 that earlier on 1st November, 2022, as recorded by letter dated 6th December 2022, a communication was addressed by the Judge-in-charge, Delhi Mediation Centre to the Registrar General, Delhi High Court giving the following criteria for selection of Advocates for the mediation training programme:

“Sir,

I am directed to refer to letter/intimation dated 01.11.2022 of Mr. Sanjay Garg-II, Judge in-charge, Delhi Mediation Centre, Tis Hazari Courts, Delhi received vide your office letter No.1910/Misc(Judl./Gaz./2022 dated 02.11.2022, on the above subject, and to say that Hon'ble the Chief Justice has been pleased to grant permission to impart 40 Hours Mediation Training Programme to 75 Advocates as per the following proposed criteria:-

i. The applicant/advocate should have minimum 10 years of experience (as prescribed under the Rules);

ii. The net declared professional income of the applicant/advocate should be more than Rs. 6 lacs per annum in two financial years preceding the date of advertisement;

iii. Advocates practicing in all Courts shall be eligible to apply for the training;

iv. Applicants/Advocates shall be required to pay Rs.7,500/- towards part of the cost. and expenses for the training;

V. Selection of the applicants/advocates, who meet the

aforesaid eligibility criteria, shall be made by draw of lots.”

This according to Id. Counsel was based upon a subsequent meeting held by the same Committee.

8. According to Id. Counsel for the Respondent No. 2, the recommendation of the Delhi Mediation Centre (“DMC”) was duly approved by the concerned Monitoring Committee of this Court as also the Hon’ble the Chief Justice as per the letter dated 6th December 2022. Accordingly, the eligibility criteria for net declared professional income of the advocate has been fixed at Rs.6,00,000/-.

9. Id. counsel for the Petitioner submits that the Petitioner is extremely keen to undertake the said training programme. The Petitioner is an Advocate having a B.Tech degree along with an L.L.B degree from Delhi University and also has completed a PG Diploma from ILI. He is also stated to have completed his LL.M from the Global Open University, Nagaland. He has been practicing since 2011 and claims to have conducted trials in hundreds of cases. On an average, he submits that he has 7 to 8 cases listed per day before the District Courts.

10. Accordingly, Id. Counsel for the Petitioner submits that the Petitioner has also completed 40 hours mediation training held by Association For India International Mediation & Arbitration Services (“AIIMAS”) which is a private institution and is now keen on undertaking the course through the Delhi Mediation Centre.

11. As per Id. Counsel for the Petitioner due to the COVID-19 pandemic, his income had gone down and currently his income is around Rs.4,00,000/-.

12. A perusal of the above discussion shows that the income criterion was

fixed basically to ensure that serious advocates undertake the course. Considering that during the pandemic period, several lawyers' incomes did not match up to the pre-pandemic levels, for some time, in the opinion of the Court, relaxation could be considered, even if on a case-to-case basis. In view of the above facts, this Court directs that the Petitioner's case may be placed by the Id. Registrar General, Delhi High Court before the concerned Committee monitoring Mediation Centres in the High Court, for consideration of the Petitioner's case.

13. The Court has been informed that the course may begin only in April, though the selection process is underway. Accordingly, let the present case of the Petitioner be placed before the Overseeing Committee within the next two weeks.

14. Further, the Petitioner is permitted to convert the facts pleaded in this petition as also the rejoinder filed before the Court in the form of a representation and submit the same before the Id. Registrar General by the end of this week. The same shall be placed before the Committee within two weeks. The Petitioner shall abide by the decision of the Committee.

15. With these observations, the present petition, along with all pending applications, is disposed of.

PRATHIBA M. SINGH
JUDGE

FEBRUARY 28, 2023

dj/dn/rp