

# Akanksha Singh vs High Court Of Delhi Through Its ... on 1 October, 2020

**Author: Vipin Sanghi**

**Bench: Vipin Sanghi, Rajnish Bhatnagar**

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IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(C) 11747/2019 and CM APPL. Nos. 48221/2019 &  
AKANKSHA SINGH

Through: Mr. Sandeep Sharma  
Dhyani, Advocates  
person.

versus

HIGH COURT OF DELHI THROUGH  
ITS REGISTRAR GENERAL & ANR

Through: Mr. Viraj R. Datar  
DHC.  
Ms. Avnish Ahlawat  
GNCTD with Mr. Nit  
Ms. Palak Rohmetra  
R-2.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

% 01.10.2020

1. We have commenced hearing in this petition.

2. Mr. Sandeep Sharma, learned counsel for the petitioner has sought to raise a challenge to the correctness of the decision taken by Examination- cum-Judicial Examination and Training Committee of this Court in its meeting held on 3.2.2020 wherein the request of the petitioner for appointment against a post which had fallen vacant on account of resignation of one of the selected candidate who had joined, was rejected by placing reliance on the decision of the Supreme Court in the case of Rakhi Ray and Ors. Vs. High Court of Delhi (2010) 2 SCC 637. The said decision of the Supreme Court was read, and after reading the same Mr. Sandeep Sharma, on instructions, fairly states that the petitioner gives up the challenge to the said decision of the aforesaid Committee in the light of the decision of the Supreme Court in Rakhi Ray and Ors. (supra).

3. The position on facts is that there were 112 general category posts in the Delhi Judicial Service which were advertised to be filled by Delhi Judicial Service Examination, 2018. The final result was declared on 21.05.2019 wherein the petitioner was shown at merit position 112 in the general category. It appears that on the same day, a select list was also published wherein the petitioner was shown at serial no. 111. The petitioner gained one position higher, and was shown in the selection list on account of exclusion of a handicapped category candidate belonging to general category, namely, Bhavya Nain. Bhavya Nain filed a writ petition before this Court challenging his exclusion - which was on the ground that his disability was not permanent, vide W.P.(C) No. 5948/2019, Bhavya Nain v. High Court of Delhi. In that writ petition this Court passed an interim order on 29.4.2020 directing the respondents to keep the vacancy against which he was entitled, unfilled. In the light of that interim order, no appointment offer was made to the petitioner.

4. Eventually, this Court allowed the writ petition filed by Bhavya Nain on 8.5.2020, and directed his appointment against the post kept vacant for him. The decision in Bhavya Nain (supra) has been assailed by both, Delhi High Court, as well as by the petitioner herein, and the same is pending consideration before the Supreme Court. The operation of the said judgment has been stayed by the Supreme Court.

5. In the light of the aforesaid development, the occasion for the petitioner to be appointed against the general category vacancy, for which Delhi Judicial Service Examination, 2018 was conducted, would arise in case the decision of this Court in Bhavya Nain (supra) is set aside by the Supreme Court. In that eventuality, the last vacancy for the general category candidate would remain unfilled, and would be available to be filled up by the petitioner.

6. This position is not disputed by either parties. In these circumstances, counsels for the parties pray that this petition may be adjourned to await the decision of the Supreme Court in the appeal preferred against the decision in Bhavya Nain (supra).

7. Accordingly, list on 21.4.2021 to await the decision of the Supreme Court in the case of Bhavya Nain (supra) .

VIPIN SANGHI, J RAJNISH BHATNAGAR, J OCTOBER 1, 2020 AK