

**Court No. - 3**

**Case :-** WRIT - A No. - 6237 of 2025

**Petitioner :-** Dr. Parul Sinha

**Respondent :-** All India Institute Of Medical Sciences Raebareli Thru. Director And Another

**Counsel for Petitioner :-** Murli Manohar Srivastava, Upmanyu Srivastava

**Counsel for Respondent :-** A.S.G.I.

**Hon'ble Abdul Moin, J.**

1. Heard learned counsel for the petitioner and Shri S.B. Pandey, learned Senior Advocate and Deputy Solicitor General of India assisted by Shri Varun Pandey, learned counsel appearing for the respondents.
2. An application for exemption of personal appearance filed today is taken on record.
3. In the said application, it has been contended that inadvertently, the learned counsel, who had been given instructions, could not appear which has resulted in this Court directing for personal appearance of the Director. An unconditional apology has also been extended in this regard.
4. As the learned Senior Advocate has appeared on behalf of the respondents, as such, the application is **allowed**.
5. The appearance of the Director is exempted.
6. With the consent of learned counsels appearing for the contesting parties, the writ petition is finally being decided.
7. The facts of the case have already been noted in detail in the order dated 03.06.2025, as corrected on 04.06.2025.
8. For the sake of convenience, the orders dated 03.06.2025 and 04.06.2025 are reproduced below:-

*"1. List of fresh cases revised. None appears for the respondents despite the name of A.S.G.I. being indicated in the cause list.*

*2. Learned counsel for the petitioner has expressed urgency in the matter by contending that the interview for the post of Associate Professor in Dr. Ram Manohar Lohia Institute of*

*Medical Sciences, Lucknow (hereinafter referred to as 'RMLIMS'), is scheduled for 08.06.2025.*

*3. The contention of learned counsel for the petitioner is that the petitioner is working as Associate Professor in All India Institute of Medical Sciences, Raebareli (hereinafter referred to as 'AIIMS'). She has applied for the post of Associate Professor in RMLIMS towards an unreserved post of Obstetrics & Gynecology in pursuance of the advertisement dated 21.02.2025, a copy of which is Annexure-3 to the petition.*

*4. As per the terms and conditions accompanying the said advertisement, it is clearly indicated that a 'NOC' from the current employer is required.*

*5. The petitioner claims to have submitted an application for being granted an 'NOC' from the respondents vide her application dated 25.03.2025, a copy of which is Annexure-4 to the petition, yet the respondents vide an order dated 18.05.2025, a copy of which is Annexure-1 to the petition, has rejected the same by means of a cryptic order by contending that the application for NOC has been denied by the competent authority in public interest.*

*6. The argument of the learned counsel for the petitioner is that apart from the fact that there cannot be any ground for the respondents to have withheld the NOC which is required by the petitioner, the other aspect of the matter is that there cannot be any occasion for the respondents to have passed a cryptic order without indicating the reasons as prevailed upon them in denying the said request.*

*7. As none responds on behalf of the respondents despite the list having been revised and the interview is scheduled for 08.06.2025 as such the Court thus requires the Director of the AIIMS, Raebareli, to appear in person along with the records to assist the Court on the date fixed and to indicate the reasons as to why the application submitted by the petitioner for being granted NOC has been denied.*

*8. List this case on 08.06.2025 as fresh.*

*9. Let the office inform about this order in writing to the respondent no.1 within 24 hours.*

*10. The Court is conscious of the judgment of Hon'ble Supreme Court passed in the case of State of Uttar Pradesh vs. Association of Retired Supreme Court and High Court Judges at Allahabad - 2024 SCC OnLine SC 14 which has indicated that the officers should not generally be asked to appear in person but can be called upon through video conferencing (VC), however, as the records have also to be perused by the Court as such perusal of records would not be possible through video conferencing therefore the order regarding appearance of respondent no.1 has been passed.*

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*"This is an application for correction in the order dated 03.06.2025 passed by this Court.*

*Heard learned counsel for the petitioner and Sri Varun Pandey, learned counsel appearing for the respondents no.1 and 2.*

*Learned counsel for the petitioner submits that inadvertently, due to typographical error, the date mentioned as 18.05.2025 in paragraph 5 of the order dated 03.06.2025 has wrongly been indicated in place of 13.05.2025. Further, this Court had directed for listing of the case on 05.06.2025 whereas in paragraph 8, the case has been directed to be listed on 08.06.2025 which is a Sunday. He thus prays for correction of the aforesaid dates in the order.*

*To the aforesaid prayer, learned counsel for the respondents has no objection.*

*On due consideration, the application is allowed. The dates mentioned as '18.05.2025 & 08.06.2025' in paragraph 5 & 8 of the order dated 03.06.2025 are corrected to read as '13.05.2025 & 05.06.2025'.*

*As Sri Varun Pandey, learned counsel, has put in appearance on behalf of the respondents as such there is no need to inform in writing about this order to respondent no.1.*

*This order shall form the part of the order dated 03.06.2025." "*

9. From a perusal of the aforesaid orders, it is apparent that the petitioner wants the No Objection Certificate from the respondents for appearing in an interview which is scheduled on 08.06.2025 in the Dr. Ram Manohar Lohia Institute of Medical Sciences.

10. By means of the communication dated 13.05.2025, the request of the petitioner has been denied in "Public Interest".

11. Shri S.B. Pandey, learned Senior Advocate has argued that there is an Office Memorandum dated (OM) 24.11.2022 issued by the Government of India which governs the forwarding of the applications by government servants who intend to apply for appointment. The said office memorandum has also been adopted in the AIIMS (**hereinafter referred to as "Institute"**).

12. It is contended that although the said OM categorically provides that forwarding of the application should be rule rather than an exception yet an application can be withheld in "Public Interest".

13. The "Public Interest" has been indicated by learned Senior Advocate to be of severe shortage of faculty in the Institute as per the instructions dated 29.05.2025 sent by the Deputy Director (Administration) which have been passed on to the Court and are kept on record along with the OM dated 24.11.2022.

14. No other ground has been urged by Shri S.B. Pandey, learned Senior Advocate.

15. Having heard the learned counsels for the parties and having perused the record, it emerges that the petitioner, who was working as an Associate Professor in Obs and Gynaecology department in the Institute, has applied in

pursuance to the advertisement dated 21.02.2025 which has been issued by Dr. Ram Manohar Lohia Institute of Medical Sciences against an unreserved post of Obs and Gynaecology.

16. The advertisement specifies, as per the general instructions, that a candidate would require an NOC from the current employer.

17. Upon the petitioner having applied for the NOC, the same has been rejected vide the communication impugned dated 13.05.2025 on the ground of "Public Interest".

18. The OM dated 24.11.2022, as issued by the Government of India and adopted by AIIMS, governs the forwarding of applications of government servants for outside employment.

19. For the sake of convenience, the office memorandum dated 24.11.2022 is reproduced below:-

**"No.DOPT-1669271204071**

***Government of India***

***Ministry of Personnel, Public Grievances & Pensions Department of Personnel and Training***

***ESTT.(Estt. C)***

**\*\*\*\*\***

***(Dated 24 November, 2022)***

**OFFICE MEMORANDUM**

**Forwarding of Application**

*This Department has issued various instructions from time to time regarding forwarding of applications of Government servants for outside employment. It is now decided to consolidate all such instructions at one place for better understanding and guidance. They are as under:*

**GENERAL GUIDELINES**

*These guidelines relate to forwarding of applications of Government servants as direct recruit for posts within the Central Government, State Governments, Autonomous/ Statutory Bodies, CPSEs etc. It may be noted that in a case in which a particular employee cannot be spared without serious detriment to important work in hand, public interest would justify withholding of his application even if otherwise the application would have been forwarded.*



*It may be added for information that where for good and sufficient reasons an application is withheld no infringement of any Constitutional right is involved.*

[Q.M. No. 170/51-Ests.. dated the 21.10.1952]

## **2. INTERPRETING THE TERM 'PUBLIC INTEREST'**

a. *The Heads of Departments should interpret the term 'public interest' strictly and subject to that consideration, the forwarding of applications should be the rule rather than an exception. Ordinarily, every employee (whether scientific and technical or non-scientific and non-technical personnel) should be permitted to apply for an outside post even though he may be holding a permanent post.*

b. *No distinction need be made between applications made for posts in a Department under the Central government, Autonomous Bodies or sub-ordinate offices, posts under the State Governments, posts in Public Sector Undertakings owned wholly or partly by the Central Government or a State Government and posts in quasi-Government organizations. They should all be treated alike so far as the forwarding of applications is concerned. **If, however, a Government servant desires to apply for a post in a private concern, he should submit his resignation or notice of retirement, as the case may be, before applying for private employment.***

c. *For this purpose, "scientific and technical personnel", may be interpreted to mean persons holding posts or belonging to services which have been declared to be scientific or technical posts or scientific or technical service.*

[O.M. No. 70/10/60-Estt. (A), dated 09.05.1960] and

[O.M. No. 8/7/69-Ests(C) dated the 01.11.1970]

## **3. GENERAL PRINCIPLES FOR DEALING WITH SUCH APPLICATIONS**

*The general principles to be observed in dealing with such applications are as under:*

a. *Applications from purely temporary Government servants* - *Applications from such Government servants should be readily forwarded unless there are compelling grounds of public interest for withholding them.*

b. *Applications from permanent Government servants* - *Both permanent non-scientific and non-technical employees as well as permanent scientific and technical employees could be given four opportunities in a year to apply for outside posts, except where withholding of any application is considered by the competent authority to be justified-in-the-public-interest. A permanent Government servant cannot justly complain of hardship on harsh treatment-if his application for any other post or employment is withheld*

c. *Applications of Government servants who have been given some technical training at Government expenses after commencement of service* - *Such Government servant cannot justifiably complain of hardship if he is not allowed to capitalize the special qualifications so justified by seeking other better employment. Withholding of application in such a case is therefore justifiable.*

d. *Applications of Government servants belonging to Scheduled Castes and Scheduled Tribes, other than 'scientific and technical personnel'* - *Applications for employment of temporary or permanent Central Government servants belonging to Scheduled Castes and Scheduled Tribes should be readily forwarded except in very rare cases where there may be compelling grounds of public interest for withholding such application. The withholding of*

application should be the exception rather than the rule in the case of employees belonging to Scheduled Castes and Scheduled Tribes, who should be afforded every facility to improve their prospects.

e. Application of Government servants for employment in private business and industrial firm. etc. - Where a Government servant (including a temporary Government servant) seeks permission, to apply for such employment, he should submit his resignation or notice of retirement, as the case may be, before applying for private employment. He cannot complain of hardship if his application is withheld. While a person remains in Government service, the State can legitimately refuse to surrender its claim on his services in favour of a private employer.

IO.M. NO. 170/51-ESTS., DATED THE 21.10.1952; OM NO. 70/10/60-ESTS(A) DATED 09.05. 1960; OM NO. 1/6/64-SCT. I DATED 19.03. 1964; O.M. NO. 5/2/68-ESTT. (C) DATED 06.05.1968; OM NO. 8/7/69-ESTS(C) DATED 01.11.1970; OM NO. 8/15/71-ESTS(C) DATED 16.09.1971.OM NO. 8/22/71-ESTS(C) DATED 16.10.1971]

..... "

20. Clause 2 of the said OM categorically provides that the forwarding of the applications should be the rule rather than an exception.

21. Clause 3 provides that applications from the government servants for applying for jobs should be permitted except where withholding of an application is considered by the competent authority to be justified in public interest.

22. Thus, from a perusal of the OM dated 24.11.2022, it clearly emerges that invariably the applications which are submitted by the employees seeking employment elsewhere should invariably be allowed and forwarded except where the competent authority decides to withhold the application in public interest.

23. Although from the communication impugned dated 13.09.2025, the "Public Interest" does not emerge yet from the instructions that have been given to learned Senior Advocate, it emerges that the "Public Interest" as cited by the AIIMS is the severe shortage of faculty in the Institute.

24. It is not the case of respondents that the petitioner has got any role in the appointment of the faculty members. In case the Institute, on its own accord, chooses not to appoint any faculty or not to make any recruitment for any faculty which has thus resulted in severe shortage of the faculty, the pitfall of the

same cannot be placed on the shoulders of the petitioner so as to deprive her of an opportunity of applying elsewhere and thus, by no stretch of imagination, i.e. on the basis of there being a shortage of faculty, can the application of the petitioner be withheld terming it to be in public interest.

25. It could have been a case that the petitioner had a role in the appointment of faculty in the AIIMS but that is not the case here.

26. On account of lackadaisical attitude which has been adopted by the AIIMS or any other reason which may be prevailing with them for not appointing the faculty obviously, the blame cannot be placed on the shoulders of the petitioner so as to deprive her of an opportunity of applying elsewhere.

27. Keeping in view of the aforesaid discussion, the writ petition deserves to be allowed and is **allowed**. The communication dated 13.05.2025, a copy of which is annexure 1 to the petition, as sent by the respondents is **quashed**. The competent authority is directed to give the NOC to the petitioner forthwith and in any view of the matter prior to 08.06.2025.

28. As an abundant precaution and as prayed for by Shri S.B. Pandey, learned Senior Advocate, this order would only be construed for the application for permanent post which has been applied for by the petitioner in pursuance to the Advertisement No. DrRMLIMS/ER/Rect-F(R)/2025/288.

29. As this order has been dictated in the open Court, as such, the respondents shall proceed to comply with this order without waiting for a certified copy of this order.

30. Shri Varun Pandey, learned counsel appearing for the respondents shall inform about this order to the respondents immediately for the purpose of issuance of the NOC to the petitioner.

**Order Date :- 5.6.2025**

S. Shivhare