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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ LPA 155/2020

PROF. SHREEKANT GUPTA Appellant
Through: Mr. Shikhar Khare, Advocate with
Mr. Srinivasan Ramaswamy, Advocate.

versus

UNIVERSITY OF DELHI Respondent
Through: Mr. Mohinder J.S. Rupal, Advocate.

% Date of Decision: 16th June, 2020

CORAM:

HON'BLE MR. JUSTICE MANMOHAN
HON'BLE MR. JUSTICE SANJEEV NARULA

J U D G M E N T

MANMOHAN, J:- (Oral)

CM Appls.12629-12630/2020

Allowed, subject to just exceptions.

LPA 155/2020

1. The appeal has been listed before this Bench by the Registry in view of the urgency expressed therein.
2. The same has been heard by way of video conferencing.
3. Present letters patent appeal has been filed challenging the order dated 12th May, 2020 passed by learned Single Judge of this Court in W.P.(C) 3103/2020 whereby appellant's writ petition challenging the deduction of one day salary by the respondent-University for contributing to the PM CARES Fund to combat COVID-19 pandemic was dismissed.

4. Learned counsel for appellant states that respondent-University did not give all its employees adequate notice of such deduction and further it proceeded to deduct one day's salary even in respect of those employees who had expressed their desire not to make a contribution. He emphasises that voluntary contribution cannot be deducted without anyone's consent.

5. *Per contra*, Mr. Mohinder J.S. Rupal, learned counsel for respondent-University points out that though in the writ petition it has been averred that the petitioners do not have personal interest in the litigation, yet it has not been filed in the prescribed format with necessary undertakings as a Public Interest Litigation (for short 'PIL').

6. This Court is of the opinion that the present writ petition is not a PIL as it has not been filed in the prescribed format of a PIL and further the teachers and staff of Delhi University are neither financially weak nor suppressed to such an extent that they cannot approach this Court directly.

7. This Court upon a perusal of the paper book finds that appeals were issued by the Chairman, UGC as well as Registrar of respondent-University in the month of March 2020 to voluntarily contribute to support the cause against the COVID-19 pandemic, while the last date for objection was 02nd April, 2020. This Court takes judicial notice of the fact that we live in the 'internet age' wherein all people are active on social media. *Prima facie*, it is difficult to believe that the appellant who himself lives in the Delhi University campus did not know either from his colleagues or staff or University officials or on email or telephone or computer about the appeals issued by the Chairman, UGC or by the Registrar, Delhi University. At the highest, the issues of notice and consent are disputed questions of fact which cannot be adjudicated in a writ petition.

8. Further, keeping in view the severity and the spread of the pandemic, the deduction of one day's salary of the appellant (i.e. Rs.7,500/-) cannot be said to be contrary to public interest or harsh or inequitable. This Court is constrained to ask itself a question that wouldn't a '*stone hearted person*' only challenge the decision to deduct one day's salary for a pandemic?

9. In any event, it is settled law that a writ petition is not a statutory proceeding and a Court is not bound to entertain and allow the same if the cause espoused by the petitioner is contrary to public interest and/or inequitable – as is the case in the present matter.

10. For the aforesaid reasons, the present appeal is dismissed with liberty to the appellant to file a suit for recovery. It is clarified that observations in the writ petition and appeal are only for deciding the same and shall not come in the way of adjudication of the suit for recovery, if any filed by the appellant. The rights and contentions of all parties are left open. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.

MANMOHAN, J

SANJEEV NARULA, J

JUNE 16, 2020

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