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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 1985/2021**

ABHAY RATAN BAUDDH Petitioner
Through: Mr. Manan Aggarwal & Mr. Vinay
Kumar, Advocates.

versus

UNION OF INDIA & ANR. Respondents
Through: Mr. Chetan Sharma, ASG with Mr.
Jivesh Kumar Tiwari, SPC, Mr. Amit
Gupta, Mr. Akshay Gadeock, Mr.
Sahaj Garg, Mr. Vinay Yadav & Mr.
Waize Ali Noor, Advocates for UOI
(M: 9811612855).

CORAM:
JUSTICE PRATHIBA M. SINGH

ORDER
% **23.04.2021**

1. This hearing has been done through video conferencing.
2. The present petition was filed by the Petitioner seeking directions for filling up vacant posts of Chairperson and members from the Buddhist, Christian, Parsi, Sikh and Jain communities in the National Commission for Minorities (*hereinafter, 'the Commission'*). Admittedly, the status of the present composition of the Commission is that out of seven positions, six positions are vacant, including the post of Chairperson. There is only Vice Chairman from the Muslim community who is functioning in effect, at the Commission.
3. Vide order dated 15th February, 2021, this Court had directed Respondent No. 1 - Union of India, to seek instructions and file a status report in respect of the vacancies. An affidavit was filed by the Under

Secretary, Ministry of Minorities Affairs, New Delhi, which had in effect set out the various provisions of the National Commission for Minorities Act, 1992. The affidavit thereafter informed the Court that out of 1279 complaints/representations which were listed before the Commissioner, 815 complaints have been disposed of. Insofar as the filling up of the vacancies are concerned, relevant portion of the status report is set out below:

“14. That it is pertinent to mention that under sub-clause 4 of Section 4 of the NCM Act, no specific time period has been provided to fill the post of Chairman and or Members of the Commission. In this regard it is submitted that since the nomination of the Chairperson/ ViceChairperson/ Members of the Commission is to be made from amongst persons of eminence, ability and integrity and five members including the Chairperson shall be from amongst the minority communities, utmost care and caution has to be taken while nominating the said members to the Commission so as to protect the interests of the minority communities as provided in the Constitution of India and laws enacted by the Parliament of India and the State Legislatures.

15. That due to provision involved in the nomination process, that the nomination should be from amongst persons of eminence, ability and integrity, and also due to the prevailing Covid-19 Pandemic, it is respectfully submitted that the vacancies would be filled up expeditiously keeping in view the vision of the Commission for which it was set up. Further, it is humbly assured that the interest of the notified Minority Communities and the functioning of the Commission as envisaged in the NCM Act, 1992 will not be compromised due to the vacant posts.”

4. The submission of Id. Counsel for Respondent No. 1 - Union of India on the last date of hearing, i.e., 8th March, 2021, was that the Commission is

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functioning efficiently, even though it was being run by only one person. However, the Court had expressed its dissatisfaction and had observed as under in its order dated 8th March, 2021:-

“6. This Court has perused the affidavit filed on record and the same is completely unsatisfactory. The mere fact that persons of eminence, ability and integrity have to be appointed would not mean that the said appointments would not be expeditiously made. The vacancies ought to be expeditiously filled and there ought to be a proper timeline for the same. Accordingly, it is directed that within a period of two weeks, status of the specific appointments shall be given in a status report, along with proper timelines.”

5. Pursuant to the order dated 8th March, 2021, a fresh status report, has now been filed by the Deputy Secretary, Ministry of Minority Affairs, Mr. S.P. Singh Teotia, who has again reiterated the submissions made in the earlier status report. However, it is further submitted that in view of the various State elections the Model Code of Conduct (hereinafter, ‘the Code’), as per the guidelines of the Election Commission of India, had also been announced due to which the appointments could not be made. However, in paragraph 9 it is deposed as under:

“That due to the aforesaid reasons and also due to the surge in the Covid-19 cases, the Respondent is making all-out effort to expedite the nomination process and it is likely to take approximately three months time to complete the nomination process. Further, it is humbly assured that in the meantime the interest of the minority communities and the functioning of the Commission as envisaged in the NCM Act, 1992 will not be compromised.”

6. Thus, keeping in mind the Code and the pandemic situation, the Ministry of Minority Affairs has sought three months' time to complete the nomination process to fill the vacancies in the Commission.
7. In view of the above stand of the Ministry of Minority Affairs, it is directed that the nomination of all the vacant positions in the Commission be filled on or before 31st July, 2021. This shall ensure that the Commission functions efficiently and the purpose of the Commission as envisaged under the Act is also fully given effect to.
8. With these observations, the present petition, along with all pending applications, is disposed of.
9. List for receiving report of compliance on 12th August, 2021.

PRATHIBA M. SINGH, J

APRIL 23, 2021
MR/AP