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

+ CRL.M.C. 684/2021 & CRL.M.As. 11306/2021, 16958/2021,
17831/2021

HARVIR SINGH

..... Petitioner

Through Mr. Mishal Johari & Mr. Ajit Singh
Joher, Advocates

versus

CENTRAL BUREAU OF INVESTIGATION AND ORS

..... Respondents

Through Mr. Prasanta Varma SPP of CBI with
Ms. Hiteshi Kakkar, Mr. Amrit Singh
Khalsa, Advocates
Mr. Harish Vaidhyanathan Shankar,
CGSC with Mr. Karan Chhibber,
Advocate along with Dr Subhash C
Gupta, Sr Standing Counsel for
respondent No. 2/ASI

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

% **09.02.2022**

HEARD THROUGH VIDEO CONFERENCING

1. This petition under Section 482 Cr.P.C has been filed with the following prayers:

"a) Allow the present Criminal Miscellaneous Petition.

b) Pass appropriate orders and direction to the respondent to conduct a proper and fair investigation by an officer not below the rank of Superintending of Police in the matter exposing the scandal of nexus among the accused persons and such other officials of corruption and registration of FIR

No.RC0032020A0014 PS. CBI ACB Delhi for the offence under Section 120B r/w 420 IPC and Section 13(2) r/w 13(1)(d) of the Prevention of Corruption of Act.

c) Any other relief(s) be granted by the Hon'ble court as it may deem fit and proper in the said circumstances."

2. On 02.03.2021, this Court issued notice and had directed respondent No.2 to file the status report/reply.

3. This Court had extended the time for respondent No.2/ Union of India to file its reply/status report.

4. On 12.07.2021, Mr. Harish Vaidhyanathan Shankar, learned CGSC, informed the Court that the Ministry of Culture was concerned with the matter and sought time to file a reply.

5. On 06.09.2021, this Court lamented the conduct of the Union of India, which had not filed its reply even after the lapse of six months since this Court issued notice and directed that status report/reply be filed within a period of two weeks failing which a Senior Official of the Ministry of Culture would be summoned to explain why the reply had not been filed.

6. On 29.09.2021, this Court passed the following order:

"2. Notice was issued on 02.03.2021. Mr. Harish Vaidhyanathan Shankar, learned CGSC accepted notice on behalf of the respondent No.2/Union of India and Mr. Prashanta Varma, learned SPP, accepted notice on behalf of CBI. On 09.04.2021, further time was given to Mr. Harish Vaidhyanathan Shankar, learned CGSC, to file the status report and the case was adjourned to 27.04.2021. On 27.04.2021, the status report had not been filed and the matter was adjourned to 12.07.2021. On 12.07.2021, Mr. Harish Vaidhyanathan Shankar, learned CGSC stated that Ministry of Culture is the concerned Department and not the

Ministry of Home and Ministry of Culture was directed to file the status report on or before 06.09.2021. On 06.09.2021, this Court expressed its anguish that the status report has not been filed despite the petition raises serious allegations against the Government Officers and an Officer not below the rank of Joint-Secretary, Ministry of Culture, was directed to join the proceedings to explain as to why the Status Report has not been filed so far.

3. *Today, nobody from Ministry of Culture has joined the proceedings. This Court is aware of that it is not proper to summons Senior Officers to the Court, but at the same time the Government cannot show a lackadaisical approach to the orders of the Court and disobey orders of this Court. In view of the fact that the orders of this Court are not being complied with and the status reports are not being filed in the petition where serious allegations have been made against the Government Department, the Secretary, Ministry of Culture, GoI, is directed to join the proceedings on the next date of hearing to explain as to why the status report has not been filed.*

4. *List on 26.10.2021."*

7. On 26.10.2021, the Secretary, Ministry of Culture, did not appear before the Court. However, the Court did not consider the non-appearance of the Secretary, Ministry of Culture, as a wilful disobedience of the order of this Court. The Joint Secretary, Ministry of Culture along with the Additional Director, Archaeological Survey of India, had joined the proceedings through Video Conferencing and it was stated by the learned Central Government Standing Counsel that an affidavit explaining the delay had been filed, but the same was not on record of the Court.

8. On 11.11.2021, the status report of respondent No.2 was placed on

record explaining the delay in filing the status report. Further time was granted to file reply/status report on the merits of the case.

9. The matter was listed today and the counsel appearing for the Union of India prayed for two day's time to file a counter reply. This Court was anguished that despite notice being issued in March, 2021, the Union of India had failed to file its reply even after the lapse of eleven months. This Court deprecates the manner in which the matter is being taken so lightly and inspite of the numerous chances given, reply has not been filed till date. The attitude of the Union of India has been lackadaisical which has resulted in unnecessary adjournments.

10. However, as a last and final opportunity, this Court grants two day's time till 11.02.2022, to the Union of India to file its reply, subject to deposit of Rs.50,000/- cost with “Armed Forces Battle Casualties Welfare Fund”. If the reply is not filed within two days and does not come on record, this Court will proceed to hear the matter finally without the reply of the Union of India. The amount after deposit should be recovered from the concerned Officer after fixing responsibility.

11. List on 21.03.2022, at 3:00 PM for final hearing.

SUBRAMONIUM PRASAD, J

FEBRUARY 9, 2022

S. Zakir