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

+ W.P.(C) 10923/2023

ASHOK KUMAR RAJDEV AND ORS

..... Petitioners

Through: Mr.Salman Khurshid and Mr.Atul Nanda, Sr. Advocates with Mr.Kamal Mohan Gupta, Mr.Ajay Gupta, Mr.Amber Shehbaz Ansari, Mr.Firoz Khan, Mr.Tanveer Ahmed Khan, Ms.Richa Bais, Ms.Sidra Khan, Mr.Martand Singh and Ms.Vartika Aggarwal, Advocates

versus

GOVERNMENT OF NCT OF DELHI AND ORS Respondents

Through: Mr.Rahul Mehra, Sr. Advocate with Mr.Santosh K.Tripathi, Standing Counsel (Civil) for GNCTD and Mr.Udit Malik, ASC alongwith Mr.Vishal Chanda, Advocate for R-1 and 5
Mr.Yoginder Handoo and Mr.Ashwin Kataria, Advocates for R-2 along with Mr.Buniyad Singh, A.D., Vigilance and Mr. Y.V.V.J. Rajasekhar, I.A.S., Special Secretary, Vigilance

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

17.08.2023

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CM APPL. 42319/2023 (Exemption)

Exemption allowed subject to just exceptions.

The application stands disposed of.

W.P.(C) 10923/2023 & CM APPL. 42320/2023

1. The instant petition under Article 226 of the Constitution of India has been filed on behalf of the petitioner seeking the following reliefs:

“a) Issue appropriate writ/ order / direction for quashing of the Show Cause Notice dated 19.6.2023 issued by Respondent no.1 & 2.; and

b) Pass such other and further order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.”

2. At the very outset, Mr. Salman Khurshid, learned senior counsel appearing on behalf of the petitioners, on instructions, prayed that the respondents no. 3 and 4 may be deleted from the array of parties.

3. Accordingly, on the oral request on behalf of the petitioners, the respondent no. 3 and 4 as impleaded in the instant petition are deleted from the array of the parties. Let the necessary steps be taken.

4. Mr. Salman Khurshid and Mr. Atul Nanda, the learned senior counsels appearing on behalf of the petitioners, on merits of the matter, submitted that the petitioners before this Court are aggrieved of the Show Cause Notice bearing F. No. 24/06/PWD/DOV/Pt.-II/7259-7261 dated 19th June 2023 issued by the respondent no. 2. The principal contention against the said Show Cause Notice is that the said Notice has been issued by an authority that is neither authorized nor competent to initiate disciplinary action against the petitioners.

5. It is submitted that the petitioners are officers of the Public Works Department, whereas, the Show Cause Notice has been issued by the respondent no. 2, i.e., the Special Secretary (Vigilance), Directorate of

Vigilance and as such the petitioners are not amenable to the jurisdiction of the Vigilance Department with respect to any disciplinary proceedings. It is submitted that the respondent no. 2 lacks jurisdiction and authority to issue the Show Cause Notice and hence, the Notice itself is liable to be quashed.

6. It is further submitted that the petitioners have made an interim reply dated 7th August 2023 to the Show Cause Notice in question, challenging the jurisdiction of the respondent no. 2 to issue a notice *qua* disciplinary action against the petitioners, and contenting that, as per Part V, Rules 11, 12 and 13 of the CCS (CCA) Rules, 1965, the power to initiate any disciplinary action against the petitioners vests with either the Hon'ble President or an appointee of the Hon'ble President or the Central Vigilance Commission but not with the respondent no. 2.

7. The learned senior counsels, hence, prayed that the impugned Show Cause Notice may be quashed.

8. Heard.

9. Issue Notice.

10. Mr. Santosh Tripathi, learned Standing Counsel accepts notice on behalf of respondent no. 1 and 5. Mr. Rahul Mehra, learned senior counsel appearing for respondents No. 1 and 5, assisted by Mr. Tripathi, vehemently opposed the instant petition and prayed for some time to file counter affidavit.

11. Mr. Yoginder Handoo, Advocate, present on behalf of the respondent no. 2, on advance notice, along with the respondent no. 2 in-person, accepts notice on behalf of the respondent no. 2. Objections have been raised on behalf of the respondent no. 2 and time has also been sought for filing a counter affidavit for bringing such objections on record.

12. Let counter affidavit be filed within four weeks on behalf of respondent no. 1, 2 and 5. Rejoinder, thereto if any, be filed within two weeks thereafter.

13. The learned senior counsels appearing on behalf of the petitioners, at this juncture, pray that this Court may direct the respondents not to take any coercive action against the petitioners.

14. Mr. Rahul Mehra, learned senior counsel for respondents No. 1 and 5, on instructions, states that no coercive steps shall be taken by the respondents against the petitioners till the next date of hearing.

15. Mr. Y.V.V.J. Rajasekhar/respondent no. 2, while taking serious objection to the statement made by Mr. Mehra, submitted that there is a *prima facie* case made out against the petitioners and there is no force in the objections raised on behalf of the petitioners that the Show Cause Notice dated 19th June 2023 has been issued without jurisdiction. It is, hence, submitted that an undertaking of such nature may not be given on behalf of the respondents.

16. List on 12th October, 2023.

CHANDRA DHARI SINGH, J

AUGUST 17, 2023

Dy/ms

Click here to check corrigendum, if any