

IN THE HIGH COURT OF DELHI AT NEW DELHI**W.P.(C) 7240/2013 and CM No.395/2014 (for directions)****COMMON CAUSE Petitioner****Through: Mr. Arvind Nigam, Sr. Adv. with Ms. Madhumita Bhattacharya,
Adv.****Versus****UNION OF INDIA and ORS Respondents****Through: Mr. Sanjay Jain, ASG with Mr. Sanjeev Narula, Mr. Kamal
Sawhney, Mr. Sunil Dalal and Mr. Akash Nagar, Advs. for UOI.****Mr. K. Raghavacharyulu, Mr. Asheesh Jain and Ms. Arunima Pal, Advs.
for R-3/CBI.****Mr. Kapil Sibal, Sr. Adv. with Mr. Ankur Chawla and Ms. Kanika
Singh, Advs. for R-5.****CORAM:****HON'BLE THE CHIEF JUSTICE****HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW****ORDER****29.01.2015**

1. This petition under Article 226 of the Constitution of India, filed as a Public Interest Litigation (PIL) seeks a mandamus to the Central Bureau of Investigation (CBI) and Directorate General, Income Tax (Investigations) to initiate an investigation, under the supervision of this Court and / or of the Central Vigilance Commission (CVC), into the

charges of money laundering, corruption, possession of disproportionate assets, criminal misconduct etc. against the respondent No.5.

2. The petition was listed before this Court for admission on 27th November, 2013, when the counsel for CBI appearing on advance notice informed that an enquiry was being conducted in a similar matter. Accordingly, the petition was adjourned directing the CBI to file a status report. The said report was seen by this Court on 2nd April, 2014, when CBI was directed to file a further upto date status report and it was observed that the Preliminary Enquiry underway by the CBI ought to be taken to its logical conclusion expeditiously. Though CBI filed another report but the Preliminary Enquiry underway remained inconclusive. Further time of six weeks sought by the CBI was refused vide order dated 6th August, 2014 and the counsel for the Income Tax Department was directed to place before this Court the entire record including the report of investigation held against the respondent No.5.

3. Though till then the respondent No.5 was not appearing, inasmuch as no notice even of the petition to any of the respondents had till then been issued but when the matter was listed on 20th August, 2014, the Advocate for the respondent No.5 made an appearance and sought audience before any further order was passed. The Income Tax Department also on that date filed its report.

4. Thereafter, the CBI has filed a final status report.

5. During the hearing on 16th October, 2014, the senior counsel for the respondent No.5 challenged the very maintainability of the present petition as a PIL and argued that the petition though in the garb of a PIL was a result of the personal animosity of the member of the petitioner and who in his capacity as an advocate was representing the petitioner in this Court against the respondent No.5. Though the petitioner has rendered yeoman service by flagging before the Courts causes in public interest and successfully but we had during the said hearing enquired from the counsel for the petitioner, the procedure followed by the petitioner for, from the myriad issues of public concern plaguing the country, selecting the issue to be raised by way of PIL.

6. The respondent No.5 has also filed a short affidavit raising certain preliminary objections including as to the aforesaid and the petitioner has filed a response thereto.

7. We have today heard the senior counsel now appearing for the petitioner as well as the senior counsel for the respondent No.5.

8. Though the senior counsel for the petitioner has refuted that the present petition is a result of the animosity between a member of the petitioner and the respondent No.5 and has sought to highlight the

distinction between the said member and the petitioner but the senior counsel for the respondent No.5 has drawn attention to the initial complaint and argued that the same was not by the petitioner but by the said member and has contended that only the name of the petitioner is being used to settle personal score of the said member of the petitioner.

9. We have suggested, that instead of us adjudicating as to the bona fides of the petitioner in maintaining this petition, the petitioner be discharged from this petition and an Amicus Curiae be appointed to assist this Court to determine the maintainability of the petition. As aforesaid, no formal notice of the petition has been issued till now.

10. The aforesaid is agreeable to all concerned. For this reason, we need not advert to the issue raised any further.

11. Accordingly, the petitioner is discharged from the present petition. Mr. N. Hariharan, Senior Advocate (Mob No.9891097218), Chamber No.398, Lawyers' Chamber Block-II, Delhi High Court, New Delhi and Mr. Siddharth Aggarwal, Advocate (Mobile No.9910166655), B-18, Lower Ground Floor, Nizamuddin East, New Delhi-110?013 who have graciously agreed, are appointed as the Amicus Curiae, to assist us in the matter. They are requested to go through the materials / records to be supplied to them by the Court Master, uninfluenced by the contentions of the petitioner and to assist us on the aspect of maintainability / entertainability of this petition.

12. On request of senior counsel for the respondent No.5, we record that the other preliminary objections raised in the short affidavit remain open for consideration.

13. The Court Master to supply two sets of complete paper book of the matter, save the documents filed in sealed cover, to Mr. Siddharth Aggarwal, Advocate.

14. List for consideration on 26th March, 2015.

CHIEF JUSTICE

RAJIV SAHAI ENDLAW, J.

JANUARY 29, 2015

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