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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Reserve: 21st September, 2010

Date of Order: November 26, 2010

+ W.P (Crl.) No.148/2010

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26.11.2010

Gopi Chand

...Petitioner

Versus

CBI

...Respondent

Counsels:

Mr. Ashok Soni for petitioner.

Ms. Suchiti Chandra for Mr. Vikas Pahwa for respondent.

JUSTICE SHIV NARAYAN DHINGRA

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporter or not?
3. Whether judgment should be reported in Digest?

JUDGMENT

1. By way of present petition under Article 226 of the Constitution of India read with Section 482 Cr.P.C the petitioner has sought quashing of FIR No.DAI-1990-A-0041/CBI/ACB/New Delhi under Section 7 and 13(2) read with Section 13(1)(D) of Prevention of Corruption Act, 1988 ("the Act", for short) and the proceedings emanating therefrom.

2. It is argued by the counsel for the petitioner that the alleged incident of taking/accepting bribe of Rs.500/- by him had taken place on 10th September 1990 when he was working as Suptd. (Commercial) in the office of DRM,

Northern Railways and a raid was conducted and he was arrested by CBI trap team for accepting and demanding bribe of Rs.500. He retired from service on 31st July 1994. CBI after completion of investigation asked for sanction from the office of petitioner, however, the office of petitioner did not give sanction to CBI with the result that CBI had to file a closure report which was filed on 2nd January 1996. However, learned Special Judge did not accept the closure report and asked for further investigation. A domestic enquiry was also conducted against the petitioner qua demand of bribe and charge sheet was served upon the petitioner. The Enquiry Officer after his enquiry held the petitioner guilty for accepting illegal gratification and held that the charges leveled against the petitioner were proved. The petitioner filed an appeal/ representation against the enquiry officer before the Appellate Authority and the Appellate Authority vide order dated 11th July 1994 accepted the appeal partly and observed that there was possibility of Leela Dhar, complainant having planted money, when petitioner was not in his room. However, the Appellate Authority observed that it has been proved beyond reasonable doubt that Leela Dhar contractor was asked to come twice and at that time another contractor was sitting with the petitioner. All that points out that the petitioner may be eliciting some favour otherwise the petitioner would have not asked Leela Dhar to visit him or that he had no role to play. Thus the punishment of petitioner was reduced from major penalty to minor penalty.

3. It is submitted by the counsel for the petitioner that since he was exonerated from the charges of accepting bribe, therefore, the FIR against him should be quashed. The other ground taken by the petitioner is that there was so much delay in his case and he was now 76 years of age, therefore, his right of speedy trial was denied to him and hence the FIR should be quashed on this

ground.

4. A perusal of the order of Appellate Authority and the Enquiry Officer would show that the Appellate Authority did not have vision of law and the circumstances considered by the Appellate Authority for reducing penalty were those which had no bearing on the case. Even though the appellate authority had come to conclusion that the petitioner did call the complainant to his office and he was there with other contractors with a view to elicit favour, still reduced the penalty. I consider that the appellate authority, at the fag end of the career of the petitioner, wanted to show mercy on the petitioner so that petitioner may continue to get pensioners' benefits and other benefits despite the petitioner having indulged into corruption.

5. The Courts and such senior officials have been showing mercy to the corrupt officials and that is the reason that corruption in this country has now spread so much that people have started losing faith in the State managers and State administration. It also seems that sanction in the case of the petitioner was not granted when he was in service due to his influence or due to reason that senior officials wanted to help him.

6. In view of my foregoing discussion, I do not find any force in this petition. The petition is hereby dismissed.

November 26, 2010
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SHIV NARAYAN DHINGRA, J