

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

Date of Order: 30th August, 2010

+ WP (Crl.) No. 1038 of 2008

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30.08.2010

NARAYAN DIWAKAR

..... Petitioner

Through: Mr. N. Joshi & Mr. Sanjay Diwakar,
Advocates.

versus

U.O.I & ANR.

..... Respondents

Through: Mr. Sachin Datta & Mr. Manikya
Khanna, Advocates for UOI.
Mr. Harish Gulati & Mr. Anindya Malhotra,
Advocates for CBI.

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?

(ORAL)

Crl. M.A. No.8721/2010 (for restoration)

This is an application for restoration of petition which was dismissed for non-prosecution on 7th July, 2010.

For the reasons stated in the application, the same is allowed and the petition is restored to its original number.

The application stands disposed of.

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1. Present petition has been filed by the petitioner seeking directions to Union of India by validly notifying/appointing independent and impartial prosecutors free from the control, supervision and subordination of the CBI. The contention raised by the petitioner is that the present system being followed by CBI of rewarding the prosecutors for a successful conviction in a case, affected the impartiality of the prosecutors and therefore violated right of a fair trial of the petitioner thereby violating Article 21 of the Constitution of India.

2. System of rewarding efficient officials is prevalent in all institutions and departments. It is considered as a progressive step by all organizations to reward their efficient and hardworking employees vis-à-vis those who shirk work. This system is prevalent in one form or the other in all departments. System of rewards and incentives for better performance cannot be considered as a system which affects the impartiality or fairness of employees. This system is only to encourage an employee to give his best to the department. Moreover the Public Prosecutors under CBI, perhaps, work more independently than an Advocate for the accused, although, both are considered officers of the Court. There is no personal interest of Public Prosecutor involved and the success or failure in the case does not affect his salary or the further

remuneration whereas success or failure in the case of a defence counsel does affect his future engagements. Merely because CBI rules provide for some reward to successful Public Prosecutors does not amount to Public Prosecutor becomes unfair to the accused.

3. This petition seems to be an effort of the petitioner to delay the proceedings. The petition is hereby dismissed.

August 30, 2010
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SHIV NARAYAN DHINGRA, J.