

IN THE HIGH COURT OF DELHI AT NEW DELHI

**W.P.(CIVIL) No. 3650 of 2010 & CM APPL
7307/10, 8027/10, 9184/10, 11848/10, 12414/10**

Reserved on: 8th February 2011

Decision on: 14th February 2011

KAMAL KISHORE

....PETITIONER

Through: Mr. Rakesh Kumar Khanna, Senior
Advocate with Mr. Rajbir Bansal and
Ms. Seema Rao, Advocates.

Versus

UNION OF INDIA & ORS

.... RESPONDENTS

Through: Ms. Jyoti Singh, Senior Advocate with
Mr. Amandeep Joshi, Advocate with
Flt. Lt. Neha Rana.

CORAM: JUSTICE S. MURALIDHAR

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| 1. Whether reporters of the local newspapers
be allowed to see the order? | Yes |
| 2. To be referred to the Reporter or not? | Yes |
| 3. Whether the order should be reported in the Digest? | Yes |

ORDER
14.02.2011

1. The Petitioner, claiming to be a law abiding citizen, and having retired as a Sergeant from the Indian Air Force after serving 18 years, filed the present writ petition on 24th May 2010 seeking the quashing of the allotment of a shop in the Ganga Complex, Subroto Park, New Delhi in favour of Respondent No. 5, Mr. Puttu Singh, and for a consequential direction to Respondent Nos. 1 to 4 to allot him the shop in question for the period from 1st April 2010 to 31st March, 2012.

2. The Petitioner had been allotted a shop in the Ganga Complex, Subroto Park, New Delhi for the period 1st April 2008 to 31st

March 2010 for running a sweet and milk shop. According to the Petitioner, an advertisement was issued in the newspaper by Respondent Nos. 1 to 3 (representing the Air Headquarters) and Respondent No.4 [the Officer-in-charge (OIC), President Service Institute (PSI) at Subroto Park] on 11th March 2010 inviting tenders for the shop in question. On 17th March 2010 when the tenders were opened it was found that the Petitioner and the Respondent No. 5 were the only tenderers. On 23rd March 2010 the Petitioner gave a representation to the Respondents for allotment of the said shop in his favour.

3. According to the Petitioner, on that very day i.e. 23rd March 2010 the Respondents displayed a list on the notice board of the PSI. According to the Petitioner this was a list showing the allotments of various shops including the shop in question. According to the Petitioner, this list indicated that the shop in question had been allotted to the Petitioner for the period 1st April 2010 to 31st March 2012. The Petitioner's name figured at Serial No. 6 in the said list. Annexure P-III A to the writ petition (at page 23 of the paper book) is a photocopy of the said list. The Petitioner states in para 6 of the writ petition that the said list "was also verified by the No. 2 Provost and Security Unit Personnel in person by visiting the shop in question."

4. The Petitioner states that on 3rd May 2010 the OIC of the PSI issued him a notice for vacation of the shop in question by 15th May 2010. The Petitioner made a representation on 4th May 2010

questioning the facts concerning the address and identity of the Respondent No. 5 for allotment of a sweet and milk shop. He made a further representation on 5th May 2010 to the Respondents asking that the move to evict him from vacating the shop in question be deferred. On 12th May 2010 he received a letter from the office of the Chief Executive Officer, Delhi Cantonment Board regarding verification of the address of Respondent No. 5. The OIC, PSI again wrote a letter asking the Petitioner to vacate the shop in question by 31st May 2010. The Petitioner made representations on 13th and 15th May 2010 and thereafter the present writ petition was filed.

5. On 25th May 2010 the following order was passed by this Court:

“1. Mr. Khanna, learned Senior counsel appearing for the Petitioner draws attention to the list purportedly displayed by the Respondents which is annexed as Annexure P-III A (page 23 of the paper book) which seems to indicate that the Petitioner has been issued a licence for the period up to 31st March 2012 for a sweet shop. However, the document at page 29 indicates to the contrary and requires the Petitioner to vacate the shop by 31st May 2010.

2. Mr. Ankur Chibber, learned counsel for the Respondents seeks time to obtain instructions and produce, if necessary, the original record which would show the factual position.

3. List on 28th May, 2010.”

6. At the next date of hearing i.e. on 28th May 2010 the following order was passed:

“1. The records that have been produced do not contain the original of the document which has been placed at Annexure P-6. Ms. Jyoti Singh, learned counsel for the Respondents states that whatever in the file is only a photocopy of that document. She however hastens to add that in a communication dated 12th May 2010 the Petitioner was, with reference to that very list, informed as under:

‘4. List attached with your application is not an official list and appears to be a part of some internal work done in the office and this list was not displayed on the notice board. The source from which internal documentation of SI has been procured may kindly be specified.’

2. What is still not clear in on what basis some internal note in the office was prepared, who prepared it and what happened subsequent to that list which ended up with the Petitioner not being allotted the shop in question although he bid for it.

3. Ms. Jyoti Singh states that she will file a detailed affidavit giving parawise reply as well as clarifying the above queries within two weeks. Response thereto, if any, be filed within one week thereafter.

4. List on 2nd July 2010.

5. Till the next date of hearing status quo as of today shall be maintained.

6. Order be given dasti.”

7. Thereafter, the Respondents 1 to 4 filed CM Application No. 8027 of 2010 on 1st June 2010 seeking vacation of the stay order

dated 28th May 2010. The averment in this application reads as under:

“1. That the Petitioner has not come to the Hon’ble Court with clean hands. He has placed heavy reliance on a list at page 23 which is shown to be signed by Flt. Lt. Neha Rana. It is submitted that the officer has not signed on the list. Her signatures are forged and superimposed. The date is wrongly mentioned. The original documents which even the Petitioner had annexed with his earlier letter neither has the date, nor the signature. Forging signatures of a serving Air Force Officer and then filing in this Hon’ble Court is a serious matter and a criminal offence.

2. That moreover even the list which was in the Computer and part of internal work for police verification of present incumbents of shops was illegally taken by the Petitioner. He is not supposed to be in possession of this document as such. It is well settled that if a person comes to the Court unclear hands, then he should not be granted any relief. In any case he is not the highest bidder in the tender and cannot be allowed to continue in a sensitive and security area in the Air Force Campus.”

8. On 1st June 2010 a short affidavit was filed by the Group Captain H.R. Viswanath working as Chief Administrative Officer, AFCAO, Subroto Park, New Delhi wherein para 1 it is stated as under:

“1. By way of preliminary objections, it is submitted that the Petitioner has not approached this Hon’ble Court with clean hands. He has placed heavy

reliance on a list at page 23 which is shown to be signed by Flt. Lt. Neha Rana. It is submitted that the Officer has not signed on the list. Her signatures are forged and superimposed. The date is wrongly mentioned. The original documents which even the Petitioner had annexed with his earlier letter neither has the date, nor the signature. Forging signatures of a serving Air Force Officer and then filing in this Hon'ble Court is a serious matter and a criminal offence. Moreover, even the list which was in the Computer and part of internal work for police verification of present incumbents of shops was illegally taken by the Petitioner. He is not supposed to be in possession of this document as such. It is well settled that if a person comes to the Court with unclear hands, then he should not be granted any relief. In any case he is not the highest bidder in the tender and cannot be allowed to continue in a sensitive and security area in the Air Force Campus. The petition deserves to be dismissed on these grounds alone.”

9. As regards the tendering process it is stated in the said affidavit that for the shop in question at Ganga Complex, Subroto Park, bids were submitted by the Petitioner and Respondent No. 5 Mr. Puttu Singh who quoted the highest rate at Rs. 7,000/- per month whereas the Petitioner quoted Rs. 5,200/- per month. Consequently, the bid of Mr. Puttu Singh was accepted. The tenders were opened by the Board of Officers ('BOO') on 17th March 2010 in the presence of the Petitioner himself. Consequently, the Petitioner was well aware that the quotation of Mr. Puttu Singh was higher. Therefore, as on

that date i.e. 17th March 2010 the Petitioner knew that he would have to vacate the shop in question forthwith.

10. On 30th April 2010 a formal allotment of the shop in question was done in favour of Respondent No.5 by issuing a letter to him. This led to the Petitioner being issued a letter dated 3rd May 2010 asking him to vacate the shop in question. As regards the complaint of the Petitioner regarding the correct address of Mr. Puttu Singh, it is stated that a verification of the said address was carried out by the Provost, Air Force and was found to be correct. It was stated that the Petitioner was perhaps a political rival of Mr. Puttu Singh.

11. On 11th May 2010 the Respondents received a letter from the Petitioner requesting for extension of time for vacating the shop in question by 31st May 2010. He insisted that the address of Respondent No. 5 in the tender form was wrong. It is pointed out that it is not understood as to how the Petitioner came to know the address given by Respondent No. 5 since he is not supposed to be privy to the information given by other parties on tender forms. The affidavit of Respondents filed on 1st June 2010 further stated that by a letter dated 12th May 2010 the Petitioner was informed that the list (Annexure P IIIA) was not official. It was not understood as to how the Petitioner had come to possess the said list. The list annexed by the Petitioner along with the letter had neither date nor signatures. The Respondents stated that it was obvious that “the signatures and the date have been forged and

fraudulently put.” It was explained that the said list was compiled by a clerk and was only intended for police verification of the present incumbents of the shops. It had nothing to do with the tender or allotment of shops. The list was just an internal work and was not meant to indicate any allotment since the allotment was through a proper process of tenders in which the Petitioner had also participated. The final decision to allot the shop was taken only on 30th April 2010 and the comparative statement of quotations was itself prepared only on 26th March 2010. Therefore, the date indicated under the list as 23rd March 2010 on page 23 shows the falsity of the forged documents. In fact, this list was also submitted in the 1st week of May, 2010 to the local police for verification and did bear the verification remarks. The Respondents stated that the original of the above list was produced before the Court along with the file notings. It was maintained that the Petitioner had illegally procured this list. The mention of the dates in the contract against the name of the Petitioner in the said list was a “mere clerical error and has followed the command of the computer given in the earlier entries. No Officer has vetted this list and it is of no consequence.”

12. Along with the short affidavit, an affidavit of Flt. Lt. Neha Rana was filed. It must be mentioned at this stage that Annexure P-III A filed by the Petitioner with the writ petition purportedly contains the signature of Flt. Lt. Neha Rana at the bottom of the document. In her affidavit she stated as under:

“1. That I am presently working at AFCAO, Subroto Park as Officer-Incharge, S.II Fund. I am conversant

with the facts of the present case as I am directly connected with the allotment of the present shops. On 29th May 2010 I was shown a copy of the writ petition mentioned above for preparing parawise comments in order to respond to the averments in the petition. While I was going through the documents annexed with the petition, I came across a list of shops attached by the Petitioner at page 23. I was showed to see that the list bears my signatures at the bottom. I have never signed on any such list and my signatures have obviously been forged or transposed. I submit that earlier, during the course of official transactions I had written certain letters to the Petitioner such as letter for vacation etc. and those documents were indeed bearing my signatures. Since these documents were in possession of the Petitioner, he has misused them to transpose my signature on this list. As a responsible officer of the Indian Air Force I am giving this affidavit with complete responsibility that I have not signed as wrongly given by the Petitioner at page 23.”

13. On 4th June 2010 when the application for vacation of stay was listed, this Court passed the following order:

“1. In view of the affidavit filed today by Flight Lieutenant Neha Rana who has made a positive statement that her signature on the document at Annexure P-III A has been forged, this Court considers it necessary to have an enquiry conducted into the matter by the Registrar of this Court to be nominated by the Registrar General. The file be placed before the Registrar concerned on 2nd July 2010 for enquiring into whether the document at Annexure P-III A to the writ petition (page 23 of the

paper book) is forged. I will be open to the Registrar to get the view of any expert for this purpose.

2. Meanwhile considering the affidavit that has now come on record, the interim order passed by this Court is modified and it is directed that the allotment made of the shop in question will be subject to further orders in this petition. The original record which is brought to the Court shall be kept in a sealed cover and will be kept with the Registrar concerned, who will obviously be referring to it during the enquiry. The Registrar is requested to give his report on or before 31st August 2010.

3. List before Court on 16th September 2010.

4. The date of 2nd July 2010 stands cancelled.

5. Order dasti to the parties.”

14. Thereafter orders were passed in CM Application No. 9184 of 2010 permitting the Petitioner to obtain photocopies of all documents on record which were relevant to the case. A further clarification was issued on 23rd July 2010.

15. The Registrar (Vigilance) of this Court after conducting a detailed enquiry submitted a report on 14th September 2010 and it was taken on record on the same date. A copy of the said report was given to learned counsel for the parties. The Petitioner was given time to file objections to the report.

16. On 13th December 2010 the Registry was directed to supply copies of depositions of EW-1 to EW-10 to the Petitioner. The

Petitioner was given a last opportunity to file objections to the report of the Registrar (Vigilance) which he did ultimately on 11th January 2011.

17. The submissions of Mr. Rakesh Khanna, learned Senior counsel appearing for the Petitioner and Ms. Jyoti Singh, learned Senior counsel appearing for Respondents 1 to 4 have been heard.

18. Mr. Khanna attacked the report of the Registrar (Vigilance) on several grounds. According to him, there were different versions regarding Annexure P-III A. The first version was that Flt. Lt. Neha Rana, in her letter dated 12th May 2010 to the Petitioner, stated that the said list was not official one. According to him, at that stage she did not dispute that the list had not been signed by her. The second version of Group Captain H.R. Vishwanath was that the list was in the computer and part of internal work for police verification of the present incumbents of the shops and was illegally taken by the Petitioner. According to Mr. Khanna when the original records were brought before this Court the original of Annexure P-III A was missing from the file and a photocopy of the said document was available. Mr. Khanna submitted that a comparison of the list of successful bidders with the list at Annexure P-III A showed that the latter “comprises of the names of the persons who on the date of preparation of the list were the list of allottees of the shops and not the present incumbents.” Mr. Khanna asked why, when the Petitioner’s allotment came to an end on 31st March 2010, his name

would be sent for police verification along with all the allottees. According to him, the list at Annexure P-III A not only contained the names of the new allottees but also the period of their allotment as well as the rate of rebate (rent) they would be liable to pay up to the period of allotment i.e. 31st March 2012. The Petitioner had offered to pay the rebate (rent) of Rs. 7,000/- by his letter dated 23rd March 2010 and this was reflected in Annexure P-III A.

19. Mr. Khanna insisted that the Respondents should be directed to supply photocopies of the documents available with the office of the PSI pertaining to the records of allotment of shops including the PSI Cash Receipts from 1st April 2010 to 30th April 2010, rebate register of SI shops, cash book of PSI office for the period April and May 2010, security deposit register and the original list of allotment of shops from 1st April 2010 to 31st March 2012. According to him, these documents would show that the stand taken by the Respondents that the decision of allotment of shops was taken on 30th April 2010 was incorrect since the Respondents started collecting rebate in the month of April 2010 much before 30th April 2010. He referred to the evidence of Flt. Lt. Gautam Salaria who stated that the tenders were opened in the month of March 2010 and finalized and submitted to the Competent Authority on 18th March 2010. Another witness Mr. B.S. Chauhan stated that the tenders were submitted to the Competent Authority on 26th March 2010 and the final decision was taken on 30th April 2010.

20. Mr. Khanna alleged that the Registrar (Vigilance) had not permitted the Petitioner to peruse the notings on the file which would have shown the movement of the file from time to time. It is further alleged that the notings portion would have shown that Flt. Lt. Neha Rana was guilty of removing her original signed letter from the official records. Also her original sample signatures were not submitted for forensic examination. Mr. Khanna submitted that the reports regarding superimposition of EW-5/2 and EW-1/2, did not throw light on EW-1 having the signatures of Flt. Lt. Neha Rana by superimposition or forgery. According to Mr. Khanna, the forensic examination of the signatures on the list as well as those on the two documents (EW-5/2 and EW-1/2) showed that they did not tally. It is alleged that the Respondents have taken a great risk by compromising with the national security by favouring Mr. Puttu Singh in a very high security area like Subroto Park. The letters from one Mrs. Omwati Lohia showing him as her tenant for 20 years showed that the address given by Mr. Puttu Singh was false. Mr. Khanna then attacked the depositions of LAC S.K. Patel, Flt. Lt. Gautam Salaria and Mr. Anurag Sharma, Handwriting Expert, CFSL, Rohini. He finally urged that the report of the Registrar (Vigilance) should be rejected and directions should be issued to the Respondents to allot the shop in question to the Petitioner.

21. Ms. Jyoti Singh, learned Senior counsel appearing for the Respondents stood by the several affidavits filed by the Respondents. She also referred to the various paragraphs of the

report of the Registrar (Vigilance) which analyze the evidence placed before him in a great detail.

22. It requires to be recapitulated that the Petitioner's entire case stems from the document at Annexure P III A which according to him is a list of allottees of various shops, including the shop in question in his favour, for the period 1st April 2010 to 31st March 2012. The Respondents 1 to 4 have taken the categorical stand that the said list was an internal document, not displayed on the notice board of the Office of the PSI as claimed by the Petitioner. They further took that stand that the copy of the said document as produced by the Petitioner was forged and fabricated. Flt. Lt. Neha Rana stated on affidavit that she never signed any such document. This was what led to the enquiry by the Registrar (Vigilance) of this Court into the genuineness of Annexure P-III A.

23. Ten witnesses on behalf of the Respondents were examined by the Registrar (Vigilance) during his enquiry. The Petitioner filed the affidavits of himself (EW-1), Mr. Anil Kumar Gupta (EW-2), Mr. Sanjeev Kumar (EW-3) and Mr. Narsingh Jasoria (EW-4). These affidavits were to the effect that Annexure P-III A was displayed on the notice board of the PSI, Subroto Park. The Petitioner deposed that signatures of the Flt. Lt. Neha Rana appearing on two letters dated 3rd May 2010 (page 25 of the paper book) and dated 12th May 2010 (page 29 of the paper book) did not tally with the signature appearing at Annexure P-III A and

therefore, there was no question of any fabrication or superimposition of her signatures by him. Before the Registrar (Vigilance) the Petitioner could not produce any person from the office of the PSI to prove the authenticity of the said list (Annexure P-III A) which was purportedly placed on the notice board. He stated that the said list was a photocopy and the signature of Flt. Lt. Neha Rana appearing on the said list was also not original but was a photocopied signature. During the enquiry he deposed that he had “removed photocopy of the list displayed on the notice board on 10th April 2010, got the same photocopied and thereafter, he again affixed the same list which was removed by him, on the notice board on same day.” He further deposed that “he did not move any written application seeking permission to deposit the security amount, he made the representation on 11th May 2010 in the office of the Respondent seeking extension of the period to vacate the shop in question and also to verify the address of Mr. Puttu Singh despite the fact that he had no knowledge about the allotment of the shop in question to Mr. Puttu Singh.” The Registrar (Vigilance) noted that the Petitioner improved his version during his further statement recorded on 6th August 2008 when he deposed that on 3rd May 2010 he came to know about the allotment of the shop in question to Mr. Puttu Singh when he went to the office of the PSI for depositing the rent.

24. EW-2 Mr. Anil Kumar Gupta deposed that the said list on the notice board “was completely pasted on the notice board with

‘GUM’ and the same could not have been removed therefrom.” No other second list was displayed after 24th March 2010. According to him, the date mentioned at the bottom of the said list was 24th March 2010. EW-3 Mr. Sanjiv Kumar had stated in his affidavit dated 16th July 2010 that the list was dated 23rd March 2010 but he deposed before the Registrar (Vigilance) that he is not sure as to whether any date was mentioned on the said list or not. According to him, the typed list was displaced on the notice board. Although both EW-4 Mr. Narsing Jasoria and EW-3 Mr. Sanjiv Kumar stated that they had taken a photocopy of the list at Annexure P-III A, they stated that “they were not supplied with a copy of the said list by the officials of the respondent and it was not possible to remove the list from the notice board as it was completely pasted with ‘GUM’.”

25. The Registrar (Vigilance) observed that it was not clear how EWs 3 and 4 took away photocopies of the list with them. He concluded that the testimonies of EW-2 to EW-4 were full of contradictions and did not inspire confidence. They were interested persons each being an unsuccessful bidder was likely to bear a grudge at not being allotted shops. A list that was completely pasted on a notice board could not have been easily removed and photocopied and pasted back as claimed by the Petitioner. This conclusion of the Registrar (Vigilance) could have been the only logical one to arrive at. It is unexceptionable.

26. The criticism by Mr. Khanna of the witnesses of the Respondents does not appear to be well-founded. Flt. Lt. Neha Rana was consistent in her stand that she had never signed the letter at page 23 at any point of time. She was clear that neither date of 23rd March 2010 appearing at the bottom of the said document is in her hand writing nor the hand written portions on the said document are in her hand writing. Her stand was that the list showed the names of persons who were occupying the shops in different complexes and that it was not the admission list of allottees. It was never displayed on the notice board. During the enquiry, in response to a question during her cross-examination, Flt. Lt. Neha Rana stated that a list of successful bidders was prepared on 26th March 2010 and was signed by Flt. Lt. Gautam Salaria and MWO B S Chauhan, Member of the BOO. She stated that the list at Page 23 of the petition “does not show the names of the persons who were allotted the shop. But the said list shows the names of the persons who were occupying the shops in different complexes and the same was prepared for verification of address.” Her statement was corroborated by the statements of EW-9 Gautam Salaria and EW-10 MWO B.S. Chauhan. The evidence is cogent and consistent. The so-called contradictions pointed out by Mr. Khanna are, on a careful examination of the depositions of these witnesses, not material. These witnesses offer a perfectly valid explanation as to what happened when the tenders were opened and finalized.

27. Two scientific experts were summoned by the Registrar (Vigilance) from the office of the Central Forensic Scientific Laboratory ('CFSL'), CGO Complex, Lodhi Road, New Delhi. Mr. Anurag Sharma, Senior Scientific Officer in FSL, Rohini examined as EW-7, in response to a specific query by the Registrar (Vigilance) as to whether Annexure P-IIIA can be got photocopied from another document after it is removed from the notice board or not, submitted that there was no fiber disturbance on the questioned documents and "it does not seem to be removed from the notice board and got xeroxed." The other expert witness Mr. D.R. Handa (EW-8) deposed that the "possibility of transplantation of a genuine model of signature on Annexure P-IIIA cannot be ruled out."

28. When Flt Lt. Neha Rana was examined by the Registrar (Vigilance) she was asked if after receiving the Petitioner's letter dated 11th May 2010 she made enquiries regarding the photocopy list (Annexure P-IIIA) referred to by him. She stated that she did make an enquiry and found that "the list was typed at the lowest clerical level for internal address and pass verification by P&S...in respect of persons occupying the shops." She produced the original typed document with the heading 'List of Camero SI Shops' which was marked as Ex. EW5/2. All the English words on this document are in original ink. It is this document which was perhaps photocopied to produce Annexure P-IIIA. However, the major difference between the two is that Ex. EW5/2 is undated and bears no signatures. When both documents were sent for scientific

examination to Mr. D.R. Handa he marked the Ex. EW-1/2 (i.e Annexure P-III A) as Q-2 and the English Body writing (in the lower part of Ex. EW 5/2) as A-3. He submitted the following report on 3rd September 2010:

“i) The questioned document marked Q.2 is a reduced photocopy of the admitted document marked A-3.

ii) The corresponding strokes of the letters are exactly on a similar position in both the questioned and the admitted body writing.

iii) The relative spacing of the dot after the word **occuping** (misspelled) is exactly matching when Q.2 is enlarged to certain extent with A-3.

iv) The peculiar vertical stroke of letter **4** is exactly matching at the relative position of the printed vertical line in Q.2 and A-3.

v) The ticked start of letter **p** in the word **occuping** (misspelled) also shows resemblance in admitted and the questioned body writings.

vi) The apostrophe stroke in the word **sh'll** is also exactly superimposing between the questioned and admitted writings.

vii) A peculiar relatively small vertical staff of the second letter **I** in the word **sh'll** is exactly similar between both sets of writings.

viii) Apart from that there are minute and inconspicuous characters, exactly matching

between the questioned and the admitting writings.”

29. Further the Registrar (Vigilance) noted in para 26 of his report as under:

“26. Mr. D.R. Handa, in his statement dated 6th September 2010 has deposed that he examined the document Annexure P-IIIA, Exhibit EW-1/2, marked by him Q.2 and English Body Writing on a paper Exhibit EW-5/2 marked by him as A-3 with the help of Video Special Comparator – 5000, Twin Video Comparator, Microscope Magnifying Glass and by applying the principles of handwriting examination, he found that the questioned documents Q.2 is a reduced copy of the admitted English Body Writing A-3. And then both the documents were examined i.e. by enlarging Q.2 to certain extent all the characters of the letters comprising the words superimposed Q-2 and A-3 resulting the document A-3 has been used for producing the document Q-2. The letters of the questioned documents marked Q-2 are exactly tallying with the admitted documents marked A-3 on their corresponding position on superimposition as revealed by Video Special comparator 5000.”

30. The Registrar (Vigilance) then concluded as under:

“28. The opinion of handwriting expert namely Mr. D.R. Handa (EW-8) who is having vast experience of 28 years in the field that the document Annexure P-IIIA (Exhibit EW-1/2)) is a reduced copy of the admitted English Body Writing i.e. EW-5/2 and that

the list Exhibit EW-1/2 and EW-5/2 are exactly tallying in their corresponding positions on superimposition as revealed by Video Special Comparator – 5000 and the relative spacing of the dot after the word “occuping” (mis-spelt) is exactly matching, peculiar vertical stroke of letter 4 are exacting matching at the relative position of the vertical line of the questioned document and A-3 (list of camero SI Shops Exhibit EW-5/2). The report Exhibit EW-8/2 also recites that the ticked start of letter ‘p’ in the word ‘occuping’ (mis-spelt) also shows resemblance in admitted and the questioned body writings, the apostrophe stroke in the word “sh’ll” is also exactly superimposing between the questioned and admitted writings, a peculiar relatively small vertical staff of the second letter ‘I’ in the word “sh’ll” is exactly similar between both sets of writings. The report of handwriting expert lends credence to the testimony of EW-6 LAC Santosh Kumar Patel that list Exhibit EW-1/2 is the photocopy of the list Exhibit EW-5/2.

29. The statement of EW-5 Flt. Lt. Neha Rana wherein she stated that the photocopy of list which was annexed by the Petitioner along with his representation, was having larger font size of the alphabetical letters mentioned therein, also seems probable as the Petitioner after coming into possession of photocopy of list Exhibit EW-5/2 may have got it photocopied again with reduction of its contents in size so as to look like a different list. It is an admitted fact that the Petitioner himself has retired from Air Force (as stated by him in para 2 of his affidavit filed during enquiry) as a Sergeant and he is supposed to be on visiting terms with some of

the officials posted in PSI office at clerical level at least. The list of Camero SI Shop which is marked as Exhibit EW-5/2 does not bear any date and the same is not signed by anyone including Flt. Lt. Neha Rana. In fact said list was never signed by any official as per statement of EW-6. It appears that the Petitioner having failed in his attempt to manage the re-allotment of the shop in question for a further period of two years till 31st March 2012 as well as in extending the time for vacating the same beyond 31st May 2010, he put forward the present story and got the signatures of Flt. Lt. Neha Rana as well as the date of 23rd March 2010 forged/ superimposed on photocopy of list which is Annexure P-III A, Exhibit w-1/2 which was merely meant for verification of internal addresses and pass verification and the same nowhere recites that it is a list approved by competent authority regarding allotment/re-allotment of the shops situated in various shopping complexes of Subroto Park.”

31. The analysis by the Registrar (Vigilance) of the evidence of the reports of the two handwriting experts from the CFSL has been thorough and unimpeachable. The original list Ex. EW5/2 bears neither any date nor signature of anyone much less Flt. Lt. Neha Rana. The witnesses referred to lend support to the conclusion that the Petitioner got signatures of Flt. Lt. Neha Rana as well as the date of 23rd March 2010 superimposed on the photocopy of the list which is Annexure P-III A (EW-1/2) and has tried to pass it off as an approved list of allotment of shops when in fact it was only meant for verification of the internal process. This Court therefore fully concurs with the *prima facie* conclusion of the Registrar

(Vigilance) that “the signatures of Flt. Lt. Neha Rana on the document Annexure P-IIIA to the writ petition (page 23 of the paper book) which is marked as Exhibit EW-1/2 is forged/superimposed.”

32. A detailed enquiry has been undertaken by the Registrar (Vigilance) pursuant to the orders passed by this Court. The Petitioner was given a full and effective opportunity to participate in the enquiry. He examined his own witnesses and cross-examined the witnesses of the Respondents. His objections to the report of the Registrar (Vigilance) have been considered. For the reasons explained, the objections are found to be without substance. It is remarkable that throughout the proceedings, the Petitioner has persisted with the stand that Annexure P-IIIA to the writ petition is a genuine document, when it is not. He has been defiant in that stand even after the report of the Registrar (Vigilance). The inescapable conclusion is that the Petitioner has introduced into the record of this Court a tampered and fabricated document.

33. The Petitioner has miserably failed to make out any case for grant of any relief as prayed for him. It is plain from the report of the Registrar (Vigilance), which this Court accepts, that the Petitioner has based his entire case on a forged and fabricated document (Annexure P-IIIA) thus brazenly abusing the process of Court. This is an extremely serious matter that deserves not only the strongest condemnation by this Court and dismissal of the

petition with exemplary costs but appropriate legal measures that would serve as a deterrent to anyone who is emboldened to produce before the Court forged and fabricated documents in support of his claim.

34. This Court is *prima facie* of the view that offences under Sections 191,192 and 196 IPC punishable under Section 193 IPC have been committed by the Petitioner in relation to these proceedings. In terms of Section 340 (1) CrPC read with Section 195 (1) (b) (i), this Court is of the opinion that it is expedient in the interests of justice that an inquiry should be made into the above offences for which a written complaint should be made to the appropriate Metropolitan Magistrate against the Petitioner. The Registrar General is hereby directed to draw up and make a complaint in the above terms and send it to the appropriate Metropolitan Magistrate within four weeks. The said complaint will be accompanied by a complete certified copy of the entire file, including the Report of the Registrar (Vigilance) and in a sealed cover the documents that formed part of the record of enquiry. The above complaint and documents will be personally delivered by a Special Messenger to the Metropolitan Magistrate concerned and an appropriate acknowledgment obtained and kept in the records.

35. The writ petition is dismissed with costs of Rs. 50,000/- which shall be paid by the Petitioner to Respondents 1 to 4 within a period

of four weeks. The interim order is vacated. The pending applications are disposed of.

S. MURALIDHAR, J.

FEBRUARY 14, 2011

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