

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

Date of decision: 22nd December, 2011

+ W.P.(C) 8324/2011

% S.K. SRIVASTAVA Petitioner
Through: Mr. Rakesh Tikku, Sr. Adv. with
Mr. S.K. Gupta, Adv.

Versus

UOI AND ORS Respondents
Through: Mr. R. Venkataraman, Sr. Adv. with
Mr. Rajesh Katyal, Adv.

CORAM :-
HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

J U D G M E N T

RAJIV SAHAI ENDLAW, J.

1. The petition impugns the order dated 23.11.2011 of the Central Administrative Tribunal (CAT), Principal Bench, Delhi dismissing O.A. No.2600/2011 preferred by the petitioner. The said O.A. was preferred challenging the order dated 14.07.2011 vide which the petitioner, an Indian Revenue Service (IRS) Officer of 1987 batch, was posted on promotion

and transfer as Commissioner of Income Tax (CIT) (Appeal), Ranchi. The Tribunal vide *ex parte* order dated 20.07.2011, while issuing notice of the O.A., had directed that the transfer order be not given effect to. While finally dismissing the O.A. vide impugned order dated 23.11.2011, the said interim order was vacated.

2. This writ petition came up first before this Court on 25.11.2011 when the counsel for the respondents appeared on caveat / advance notice. On the representation of the counsel for the petitioner that the respondents had shown undue haste in, vide order dated 25.11.2011 itself relieving the petitioner from his duty at Delhi with immediate effect, we had directed that the relieving order be not given effect to. The said interim order has continued till now. The counsel for the respondents waived formal notice and with consent, the counsels have been heard finally at the admission stage itself.

3. Need was not felt to issue notice of the petition to the private respondents No.7&8.

4. The case of the petitioner is, that his performance has generally been rated as outstanding and very good; that because of his opposition to corruption and moral depravity in the Income Tax Department and because of his having detected and reported theft of public money and public revenue in excess of ₹10,000/- crores by corrupt and morally deprived IRS Officers, he has been targeted and impleaded in false and mischievous cases; that in the year 1999, he was posted as Deputy Commissioner at Delhi and subsequently promoted as Joint CIT and Additional CIT and retained at Delhi; that in the year 2007, he was placed under suspension and owing whereto the recommendations of the DPC held on 30.03.2007 qua him were placed in the sealed cover; that the order of suspension challenged by filing O.A. No.3661/2009 was set aside vide order dated 31.05.2010 therein for the reason of having been continued without substantial progress in the inquiry; that the sealed cover aforesaid was opened and the petitioner was ordered by the Appointment Committee of the Cabinet to be promoted to the rank of Commissioner of Income Tax with effect from 28.08.2007 i.e. the date of promotion of his junior with consequential benefits; however he was not so promoted and posted; that

the Tribunal vide order dated 19.11.2010 in O.A. No.271/2010 directed the respondents to issue his posting and promotion orders on the basis of option already given by him; that the said order was also not complied with and on notice being issued in contempt proceedings initiated by him, he was on 11.05.2011 promoted as Commissioner of Income Tax and posted in Delhi; that owing to the same, the contempt proceedings were discharged; however on 14.07.2011 he was arbitrarily transferred to Ranchi.

5. It was thus the contention of the petitioner before the Tribunal, (i) that the petitioner having been posted on 11.05.2011 as CIT (OSD) at Delhi could not on 14.07.2011 have been posted / transferred as CIT (Appeal) at Ranchi; (ii) that the invocation of paras 3.3 and 7.1 of the Transfer Guidelines dated 16.02.2010 was misconceived; (iii) that the petitioner having been promoted and posted on 11th May, 2011, could not have been transferred citing the ground of promotion and posting after promotion; (iv) that there could be no interim posting; (v) that no cocktail of paras 3.3. and 7.1 of the Transfer Guidelines could have been made; (vi)

that the transfer was without taking into account the preference given by him; (vii) that the transfer was in violation of the order dated 19.11.2010 in O.A. No.271/2010; (viii) that the transfer order dated 14.07.2011 wrongly presumed that the petitioner had spent more than 10 years in Delhi; (ix) that the period during which he remained suspended was to be excluded in calculating his posting time at Delhi and upon such calculation, he had not worked in Delhi for more than eight years and was entitled to be in Delhi upto the end of 2015; (x) that the Administrative Controlling Authority at Ranchi was junior to him by one year; (xi) that the transfer order is punitive in nature owing to the petitioner having filed the cases against other officers of the department; (xii) that there was no administrative exigency for posting him to Ranchi; (xiii) that the principle of first in first out should have been applied; (xiv) that the posting authority i.e. Finance Minister who is to be guided by the Placement Committee had been misguided.

6. The respondents, before the Tribunal itself, gave an option to the petitioner that if he felt that he should have been transferred to a better and

bigger place than Ranchi or for the reason of the Administrative Authority, Ranchi being junior to him should give a request for change and which would be considered. The said offer was however not accepted by the petitioner. The respondents also denied that there was any cocktail in the transfer order of para 3.3 and para 7.1 of the Transfer Guidelines. It was further contended that the order on 11.05.2011 promoting the petitioner as CIT (OSD) at Delhi was on the eve of contempt proceedings initiated by the respondents and was until further orders only, till the meeting of the Placement Committee; that the Placement Committee after considering all the facts had vide order dated 14.07.2011 posted the petitioner at Ranchi; that the petitioner had been working in Delhi for a very long time and transfer was due long back and he had now been transferred due to promotion. It was denied that the transfer was punitive. It was also pleaded that in fact it was the petitioner who had been making reckless allegations against various officers of the department and had to apologize before the High Court and had also assured that he would not in further level any wild allegations against officials of the respondents.

7. The Tribunal in the impugned order, at the outset observed that the interference in transfer and posting of government employees is limited and confined only where (i) the authorities who issued the transfer orders, were not competent to pass the orders; or, (ii) the service rules, transfer policy / guidelines prohibit such transfer; or, (iii) the order is *mala fide*; or (iv) the order suffers from arbitrary and discriminative action of the Executive. It was observed that the petitioner had All India Transfer liability and it was not in dispute that the transfer and posting orders of the petitioner to Ranchi had been passed by the competent authority i.e. the Finance Minister. As far as the challenge to the transfer as contrary to the Transfer Guidelines was concerned, the Tribunal found that as per the said Guidelines, on promotion Group 'A' Officers were normally to be transferred out of the region; that the petitioner had been working in Delhi with effect from 07.06.1999; that even during his suspension, his headquarter was at Delhi and thus the period of suspension was not to be excluded; the stay of the petitioner at Delhi was computed as of eight years and four months; that the petitioner, on promotion was thus due to be transferred out of the region. The argument of reverse discrimination was

held to be not admissible. It was similarly held that there was no violation of the order dated 19.11.2010 in O.A. No.271/2010. The allegations of *mala fide* and arbitrariness were also found to be not substantiated.

8. We may at this stage set out some of the paras of the the Minutes of the Meeting held on 01.07.2011 of the Placement Committee qua the transfer of the petitioner to Ranchi and posting in grade of Commissioner of Income Tax, in so far as relevant for the agreements raised before us:

“1. The promotion of Shri S.K. Srivastava (IRS-87052) to the grade of Commissioner of Income-tax for the year 2006-07 has been carried out in compliance of the order of Hon’ble CAT in O.A. NO.271/2010. Approval of Hon’ble Finance Minister was obtained on 11.05.2011, to promote the officer. This approval was taken, based on legal advice, before the CAT hearing fixed for 12th May, 2011, after dismissal of the Department’s WP 7880/2010 in the Delhi High Court, and in the light of the contempt proceedings before CAT Delhi, when CAT had not accepted the Departments’ stand. On 11.05.2011, Chairman CBDT had noted on the file that Hon’ble Finance Minister had also directed that the “Officer

should be promoted and posted in the same place where he is currently posted, till the final decision is taken by the Placement Committee / FM.”

2. Accordingly, a meeting of the Placement Committee was held today on 01.07.2011 to decide the posting of Shri S.K. Srivastava (IRS-87052), in order to implement the directions of Hon'ble Finance Minister as recorded by Chairman, CBDT on 11.05.2011.

3. Para 3.3 of Transfer / Placement Guidelines for officers of the Indian Revenue Service, CBDT 2010 reads as “On promotion, Group-A officers will normally be transferred out of the Region, except where they have come to that Region less than two years earlier. However, they may be retained for the balance period of tenure at the place of their posting, subject to the availability of the vacancies”.

4.2.2. This has since been revised and replaced by Transfer / Placement Guidelines for Officers of Indian Revenue Service – 2010. Under the present facts and circumstances the officer is being considered for promotion in the Grade of Commissioner of Income Tax. According to the new / prevalent Transfer /

Placement Guidelines for Officer of Indian Revenue Service – 2010 the postings of officers on promotion is guided by para 3.3 of the said guidelines. Para 4 of the new Transfer / Placement Guidelines which corresponds to para 5 of earlier policy is not relevant in case of the officer's transfer on promotion.

5. *Placement Committee has, additionally, considered the fact that the officer has been filing a large number of cases in the Delhi High Court, CAT and District Courts, not limited only to his own service / personal matters. The officer has filed around 35 cases in various Courts in Delhi since 2006, including cases such as seeking permission of the Delhi High Court to “to associate in the prosecution of income tax appeal preferred by the Commissioner of Income Tax Delhi, New Delhi in the matter of evasion of tax by”..... a company with which he had no connection as either assessing, supervisory or appellate officer. As a result various Courts have passed adverse comments and strictures against him and imposed costs on the officer for abuse of the process of law as well as use of un-parliamentary language and unwarranted references to women officers, even in his petitions. These however*

have not deterred him from continuing to use un-parliamentary language particularly against lady officers and filing / proposing litigation for extraneous reasons against other officers, individuals and institutions, in Delhi.

5.1 As a matter of fact, as recently as 15.06.2011, the Delhi High Court, in a writ petition filed by the officer, has found the officer “guilty of making a false façade of inquiries against” Officers of the Department and he has been warned by the High Court as under:

“Though the petitioner is found guilty of making a false façade of inquiries pending against Sh. S.S. Rana and Ms. Sudha Sharma and of having gone to the extent of pleading that appointment of Sh. S.S. Rana and Ms. Sudha Sharma as members of the CBDT would place them above the Officers inquiring against them and which pleas have turned out to be blatantly false but since the writ petition is dismissed in limine, I refrain myself from imposing any costs on the petitioner. The petitioner is however warned to be careful in future of the pleas made and the arguments taken before the Court.”

In the totality of the above circumstances, and in view of the directions that his posting after the issue of his promotion order as CIT needs to be considered by the Placement Committee and submitted for approval of Hon'ble Finance Minister, the Placement Committee, considering the totality of the above facts and circumstances, recommends that apart from being posted in terms of Clause 3.3 of the Placement Guidelines that would apply in his case, the continuation of his placement in Delhi would not be in administrative interest.

6. In view of the above discussion and after considering the letter of Shri S.K. Srivastava, the various Courts orders cited by him, and the facts and circumstances recorded in para 5 above, it is proposed to post him, as Commissioner of Income Tax (Appeal), Ranchi under CCA-Patna, subject to the approval of Hon'ble Finance Minister. In selecting the Station of posting, the Placement Committee has also considered the availability of medical facilities at this Station to take care of his family requirements and also the fact that Bihar is his home state."

9. The aforesaid Placement Committee, in accordance with the Transfer / Placement Guidelines dated 16.02.2010, comprises of Chairman of the CBDT, Member (Personnel & Vigilance) and the senior most member of CBDT. The decision aforesaid is unanimous. Clauses 3.3 and 7.1 of the Transfer / Placement Guidelines dated 16.02.2010 are as under:

“3.3 On promotion, Group-‘A’ officers will normally be transferred out of the Region, except where they have come to that Region less than two years earlier. However, they may be retained for the balance period of tenure at the place of their posting, subject to the availability of vacancies.

7.1 Notwithstanding anything contained in these Guidelines the Placement Committee may, if it in furtherance of organizational objectives, transfer, retain or post any officer to any station / Region or a specific post.” Clauses 4.3(i) inter alia provides that Group ‘A’ officers shall be liable to transfer if they have on 31st December of the preceding year completed eight years of continuous stay in field posting in New Delhi.

10. The senior counsel for the petitioner before us has contended:

- (i) That notwithstanding Clause 3.3 supra, of the sixty odd transfers / placements effected vide transfer order dated 14.07.2011, ten have been retained in Delhi inspite of promotion;
- (ii) That in the promotion-cum-placement order communicated to the petitioner on 11.05.2011, the words “until further orders” did not find mention;
- (iii) That the discretion of the Placement Committee in transferring the petitioner outside Delhi on promotion stood exhausted on 11.05.2011 on the petitioner being retained at Delhi and the said discretion could not be exercised again;
- (iv) That Clause 3.3 and Clause 7.1 of the Transfer / Placement Guidelines are mutually exclusive and when clause 3.3 is invoked, the clause 7.1 shall have no role;

- (v) That the Petitioner has filed Criminal Writ Petition No.876/2011 for investigation by CBI into conduct of Sh. S.S. Rana and his accomplices including Sh. Prakash Chandra, Chairman, CBDT at the time of Minutes dated 01.07.2011 (supra) and owing thereto, the order of transfer to Ranchi is *mala fide*;
- (vi) That para 3.3 supra uses the word “normally” which means that there is no bar under the Transfer / Placement Guidelines also for the petitioner continuing in Delhi inspite of promotion;
- (vii) That the petitioner has completed only five years and one month in Delhi and the Tribunal has wrongly computed the petitioner to have completed more than eight years in Delhi. A copy of communication dated 09.12.2011 of CBDT enclosing the profile of the petitioner as available in cadre management system is relied on in this regard. It is contented that it was for this reason only that on 11.05.2011 a decision

to retain the petitioner in Delhi was taken;

(viii) A case of malice in law is made out from the respondents having proceeded on the premise of the petitioner having completed more than eight years in Delhi;

(ix) Attention is invited to the list of cases filed by the petitioner. It is contended that the petitioner was driven to wall in filing the said cases and has succeeded in all the cases which he was compelled to file and merely because the petitioner was forced to take remedies against his grievance cannot be held against the petitioner.

11. The senior counsel for the respondents has urged:

(i) That the Transfer / Placement Guidelines cannot be read as a charter of rights;

(ii) That the Placement Committee under the said Guidelines is the primary body to decide the transfer / placement;

- (iii) That the word “normally” in para 3.3 means “invariably”;
- (iv) That the Finance Minister has approved the transfer order dated 14.07.2011 impugned in these proceedings;
- (v) That the petitioner has mischievously been filing criminal complaints against the lady officers of the department in the Courts at Noida to get warrants of their arrest issued and to deprive them of the provision of anticipatory bail;
- (vi) That the Placement Committee was fully justified in taking stock of all the aforesaid facts inasmuch as the continuance of the petitioner is detrimental to the harmony and peaceful functioning of the department;
- (vii) That the petitioner has even filed an application in the “2G Telecommunication Proceedings” to be examined as a witness. Reliance is placed on the order dated 09.02.2010 dismissing W.P.(C) No.13606/2009 preferred by the

petitioner seeking participation in the prosecution of the appeal preferred by the department in the matter of evasion of tax by M/s NDTV Ltd. and seeking holding of enquiry and which WP(C) was dismissed with costs of ₹20,000/- observing that the petitioner had made reckless and scandalous allegations against various officials of the department and the writ petition had been filed in abuse of the process of the Court and intended to embarrass the colleagues in the department;

(viii) Reference is made to order dated 15.06.2011 dismissing W.P.(C) No.4326/2011 preferred by the petitioner seeking quashing of the recommendations of the Empowered Committee of Secretaries for appointment to the post of Members CBDT of Sh. S.S. Rana and Ms. Sudha Sharma;

(ix) That inspite of undertaking given to this Court, the petitioner is not cooperating in the enquiry against him of sexual harassment.

(x) Reliance is placed on *T.D. Subramaniam @ Satyapalan Vs. UOI* (1981) 4 SCC 150, *M. Sankaranarayanan, IAS Vs. State of Karnataka* (1993) 1 SCC 54, *National Hydroelectric Power Corporation Ltd. Vs. Shri Bhagwan* (2001) 8 SCC 574, *State of U.P. Vs. Siya Ram* (2004) 7 SCC 405 & *Anil Dhall Vs. UOI* 81 (1999) DLT 501, judgment dated 23.07.2009 of the Division Bench of this Court in W.P.(C) No.10200/2009 titled *Ram Kumar Vs. UOI*, judgment dated 03.07.2009 of Division Bench of this Court in W.P.(C) No.539/2009 titled *UOI Vs. Azam Siddiqui*, all on the scope of interference by the Court in orders of transfer.

12. The senior counsel for the petitioner in rejoinder has handed over a summary of synopsis together with copies of judgments viz. (i) *Somesh Tiwari Vs. UOI* 2009 (2) SCC 592 (ii) *Arvind Dattatraya Dhande Vs. State of Maharashtra* 1997-(006)-SCC-0169-SC (iii) judgment dated 19.12.2006 of this Court in W.P.(C) No.16802/2006 titled *R.N. Tiwari Vs. Videsh Sanchar Nigam Ltd.* (iv) judgment dated 04.08.2004 of the Division Bench of this Court in W.P.(C) No.12923/2004 titled *Sqn. Ldr.*

K.V. Rao Vs. UOI (v) judgment dated 23.07.2009 of this Court in W.P.(C) No.10200/2009 titled ***Ram Kumar R. Vs. UOI***.

13. The Administrative Tribunals Act, 1985 has vested the decision of the disputes as the present in the Central Administrative Tribunal and has not deemed it appropriate to provide any appeal there against. This Court has been approached in exercise of its powers of judicial review under Article 226 of the Constitution of India. Scope of interference in exercise of such powers is widely different from that as in appeal. Wade's Administrative law (8th Edition) sums up the said difference as, when hearing an appeal the court is concerned with merits of a decision: is it correct? In Judicial Review, the court is concerned with the legality: is it within the limits of the powers granted? The said parameters cannot be lost sight of while dealing with the matter.

14. Of the four grounds, as noticed supra by the Tribunal, on which the challenge to the order of transfer can be entertained, as rightly held by the Tribunal, there is no challenge as to the order having been effected by the competent authority for the transfer being prohibited under the Transfer

Policy / Guidelines in force . It is not the case of the Petitioner before us also. All the grounds urged by the petitioner fall in the two remaining categories, of the order being *mala fide* or of the transfer suffering from arbitrariness and malice of discrimination.

15. As far as the plea of *mala fides* is concerned, the Tribunal has not found the same to have been established. We are unable to find any perversity or illegality in the said finding of the Tribunal. The allegations of malice and *mala fides* are only against Prakash Chandra, Chairman, CBDT who is but one of the members of the Placement Committee. The other two members of the Placement Committee as aforesaid are also high ranking officers and against whom there is no allegation or whisper of being inimical to the petitioner save for general blaming the entire department, if not the world. The decision of the Placement Committee as aforesaid is unanimous. When the allegations are against one of the three Member Placement Committee and there is no averment that the member against whom *mala fides* are alleged was in a position to influence the decision of the other two members or so influenced the decision of others, the recommendation of the three Member Committee cannot be said to be

suffering from the malady of malice or *mala fides*. Moreover, the Placement Committee is but to make the recommendation. The competent authority to affect the transfer is the Finance Minister and there are no allegations of *mala fides* against him. We are therefore unable to find any ground for interference with the decision of the Tribunal, of the petitioner having failed to establish a case of *mala fides*. Merely because the Petitioner has filed a Writ Petition against one of the members of the Placement Committee cannot allow the Petitioner to label the decision so taken as *mala fide* for the reason of pendency of the said Writ Petition. If such a course were to be permitted, it would open the gates for unscrupulous persons to initiate proceedings against persons likely to take decisions qua them, to subsequently in the event of the decision being against their like, label the same as mala fide. We may also observe that the Placement Committee, in taking the decision to transfer the Petitioner from Delhi to Ranchi was not guided by the time already spent by Petitioner at Delhi: It was the plea of Petitioner before the Tribunal that he had not completed 8 years mentioned in Clause 4.3(i) supra of the Transfer/Placement Guidelines. It was in response of the said plea that the Tribunal returned

the finding of the Petitioner having completed more than eight years. We are unable to find any error therein also. The reliance by the Petitioner on his profile as available in cadre management system is misconceived; the same itself mentions that the duration mentioned therein may differ from calculation as per policy.

16. We now take up the remaining ground of arbitrariness and discrimination.

17. The star argument of the petitioner is of the petitioner being not liable to be transferred for the reason of having already been promoted and placed at Delhi. However, a perusal of the order dated 11.05.2011 and copy whereof was served not only on the petitioner and other officials but also placed on the website of the department shows the same to have been issued in compliance of the order dated 12.05.2010 in O.A. No.271/2010 and the same to be “until further orders”. In sharp contrast, such words are not found, neither in the transfer order dated 14.07.2011 effecting transfer of scores of officers nor in the Minutes of the Meeting dated 01.07.2011. It is the petitioner’s own case that the said order dated 11.05.2011 was

passed hurriedly in the night since the senior official of the department had been summoned to appear before the tribunal on 12.05.2010 in the contempt proceedings initiated by the petitioner. As per the Transfer/ Placement Guidelines, the person / body vested with power is of Tribunal /Placement is the Placement Committee. The order dated 11.05.2011 is not of the Placement Committee but of the Under Secretary to the Government of India. The same was issued in a hurry to comply with the order of the Tribunal and to save the rigour of contempt and as an interim arrangement, till the body entrusted with the power to transfer / place could meet and take decision. We are unable to hold that the Placement committee entrusted under the Guidelines to take the decision was deprived of its said power merely for the reason that to save punishment for contempt, an interim decision has earlier been taken.

18. Rather, we are of the view that the averments of the petitioner of *mala fides* are belied from the order dated 11.05.2011. Had the department or any of its senior officers entertained any *mala fides* against the petitioner, nothing prevented them from in order dated 11.05.2011 itself, while promoting the Petitioner, post the petitioner outside Delhi. On the

contrary they choose not to disturb the status as then prevailing and which would have caused more inconvenience to the petitioner, till a decision is taken by the Placement Committee.

19. With the aforesaid finding, the entire edifice of the case of the petitioner falls. Clause 4.3 (i) of Transfer Guidelines providing liability from transfer on completion of eight years at Delhi does not create any right to remain in Delhi for eight years and in any case is not attracted to cases of promotion. Clause 3.3 supra attaches transfer out of region to promotion. It is not in dispute that Petitioner has been promoted. The counsel for the petitioner has been unable to show as to why the normal rule of transfer following promotion should not be followed in case of Petitioner. There is nothing to show that, on 11.05.2011 any decision was taken to digress from clause 3.3. Supra

20. The other arguments of some other persons having not been transferred also are without any basis; their service records are not before us and we are unable to give any credence to the same. Even otherwise who should be transferred where, is for the appropriate authority to decide

and order of transfer cannot be interfered with on the ground that some others have not been transferred.

21. From the perusal of the Minutes of the Meeting of the Placement Committee we find that the recommendation for transfer of Petitioner to Ranchi is as per clause 3.3. However in addition thereto, the Placement Committee has also noticed that, the Petitioner had been filling large number of cases not limited to his own service/personal matters and in some of which Courts had passed strictures/comments and imposed costs against him; that the Petitioner was continuing to use un-parliamentary language against the lady officers. The Placement Committee for these reasons also recommended that continuous of Petitioner at Delhi was not in administrative interest. These reasons, as aforesaid are over and above the liability of Petitioner under the guidelines for transfer outside Delhi on promotion. Had these been the real reasons for transfer of Petitioner outside Delhi and Clause 3.3 was only a camouflage, the Placement Committee would not have in the Minutes of Meeting referred thereto.

22. As far as the judgments relied upon by the petitioner are concerned, in ***Somesh Tiwari*** (supra), the Apex Court returned a finding of fact that the order of transfer was by way of punishment. It has not been found so in the present case. Moreover as aforesaid, besides Sh. Prakash Chandra, Chairman, CBDT against whom allegations of *mala fides* are leveled, two other members of the Placement Committee and the Finance Minister against all of whom no allegations have been leveled are also of the view not only there is no need to make any exception from the normal rule of transfer on promotion but also it being the administrative exigency to transfer the petitioner out of Delhi. . Similarly in ***Arvind Dattatraya Dhande*** (supra) there was a finding of *mala fide* and in ***Sqn. Ldr. K.V. Rao*** (supra) there was a finding of the transfer being in contravention of statutory rule. The said judgments are thus *de hors* the facts of the present case and have no application. We fail to decipher as to why reliance is placed on ***R.N. Tiwari*** and ***Ram Kumar*** supra in as much as they are not found to support the case of the Petitioner.

23. We thus do not find any merit in the challenge by the petitioner to the transfer order or to the order of the Tribunal. . We accordingly dismiss the petition. The interim order stands vacated. No order as to costs.

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RAJIV SAHAI ENDLAW, J

ACTING CHIEF JUSTICE

DECEMBER 22nd , 2011
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