

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

+ **W.P.(CRL.)1520/2014**

Reserved on: 03.09.2014

Pronounced on: 14.10.2014.

R P LUTHRA

..... Petitioner

Through: Petitioner in person.

Versus

CBI

..... Respondent

Through: Mr. K.Raghavacharyulu, Adv. with
Ms.Arunima Pal, Adv.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

J U D G M E N T

: Ms.G.ROHINI, CHIEF JUSTICE

1. The petitioner, who is a practicing Advocate, filed this writ petition as a public interest litigation seeking a mandamus directing the CBI to register a case and to undertake investigation in accordance with law on the basis of the statements in a blog (website) about the continuation of an Additional Judge in Madras High Court.

2. It is pleaded in the writ petition that the statements in the said blog disclosed the commission of various cognizable offences including the offences under the Prevention of Corruption Act, 1988 and Sections 217 and 218 of Indian Penal Code, 1872 (IPC) relating to screening of offenders and therefore, the authorities concerned ought to have initiated action as required under Section 154 or/and Section 157 of the Code of Criminal Procedure,

1973. Alleging that the authorities concerned failed to perform their statutory duty, the petitioner contends that it is a fit matter to issue a mandamus directing the respondent/CBI to register a case forthwith and to undertake the investigation into the whole issue.

3. We have heard the petitioner appearing in person.

4. A perusal of the printout of the blog, on the basis of which the petitioner sought to invoke the jurisdiction of this Court, shows that the contents therein relates to extension of term granted to an Additional Judge of the Madras High Court. It was stated in the blog that the Intelligence Bureau (IB) had found enough material against the Additional Judge about corruption and that in view of the IB report, the Supreme Court collegium had initially recommended that he should be discontinued after his two years term was over and that the said recommendation was also sent to the Central Government. However, a political party in Tamil Nadu which was one of allies of the Central Government in power at that time had strongly objected to the recommendations made by the collegium and brought pressure upon the Central Government. In pursuance thereof, the then Chief Justice of India was requested to continue the term of the Additional Judge and thereupon the Chief Justice of India on his own, without consulting the other members of the collegium, wrote a letter to the Government of India for extension and thus, the term as Additional Judge was extended for one more year.

5. The petitioner who appeared in person vehemently contends that since the corrupt practices exposed in the blog are with regard to the appointment to the highest judiciary in the State, it is essential to make a thorough inquiry

and to initiate action against the offenders so as to uphold the esteem of the justice administration system.

6. We may at the outset point out that the validity of the permanent appointment of the Additional Judge of Madras High Court, whose extension of term as Additional Judge was referred to in the blog, was in fact considered by the Supreme Court in a Public Interest Litigation in **Shanti Bhushan and Anr. vs. Union of India (UOI) and Anr., (2009) 1 SCC 657.** The allegation was that the appointment was in violation of the law declared in **Supreme Court Advocate-on-Record Association & Anr. Vs. Union of India, (1993) 4 SCC 441** that the opinion of the Chief Justice of India has to be formed collectively after taking into account the views of his senior colleagues who are required to be consulted by him for the formation of opinion. It was alleged by the petitioner therein that no such opinion was formed. Having regard to the fact that the Additional Judge who was already confirmed by that time was due to retire, the Supreme Court declined to interfere with the appointment, however, it was observed that a person who is not suitable to be appointed as a permanent judge on the ground of unsuitability due to adverse factors should not be continued as an Additional Judge and it is for the Chief Justice of India to adopt such modalities which according to him would be relevant for taking a decision in the matter.

7. In view of the said decision of the Supreme Court, it appears to us that the controversy relating to the extension of the term of the said Additional Judge has already been set at rest. Moreover, the learned Judge had retired on attaining the age of superannuation on 02.07.2009 and he had also

expired shortly thereafter. That being so, we are unable to understand as to how the matter involves public interest to direct an investigation by CBI at this stage, that too on the basis of the statements made on a blog.

8. It is also relevant to note that ‘blog’ is nothing but a personal website that allows the users to reflect, share opinions and discuss various topics in the form of an online journal and sometimes letting the readers comment on their posts. In *Macmillan English Dictionary*, the word ‘blog’ is defined thus:

“A website containing short articles called posts that are changed regularly. Some blogs are written by one person about their own opinion, interests and experiences, while others are written by many different people. Most blogs allow comments from reader.”

In *Cambridge English Dictionary*, the word ‘blog’ is defined as follows:

“A regular record of your thoughts, opinions, or experiences that you put on the internet for other people to read.”

In *Oxford English Dictionary*, the word ‘blog’ is defined as:

“A regularly updated website or web page, typically one run by an individual or small group, that is written in an informal or conversational style.”

In *Merriam-Webster English Dictionary*, the word ‘blog’ is defined as:

“A web site on which someone writes about personal opinion, activities, and experiences.”

9. In *P.Ramanatha Aiyar’s Advanced Law Lexicon (3rd Edn.)*, ‘blog’ is explained as under:

“A blog is basically a journal that is available on the web. The activity of updating a blog is “blogging”. And someone who keeps a blog is a “blogger”. Blogs are typically updated daily using software that allows people with little or no technical background to update and maintain the blog.

Postings on a blog are almost always arranged in chronological order with the most recent additions featured most prominently.”

10. As could be seen from the above definitions, the statements in a blog are only the personal opinion of the user and cannot take the place of evidence.

11. It may be added that even the newspaper reports are held to be only hearsay evidence and not one of the documents referred to in Section 78(2) of the Evidence Act, 1872 by which an allegation of fact can be proved. In *Laxmi Raj Shetty & Anr. Vs. State of Tamil Nadu*, (1988) 3 SCC 319, it was categorically held that the Court cannot take judicial notice of the facts stated in a news item published in a newspaper. In our opinion, the same analogy applies to the statements in a blog.

12. We may also refer to the well settled principle of law that the Courts should be fully satisfied that substantial public interest is involved before entertaining the petition filed as a PIL and that the Courts before entertaining the PIL should ensure that the same is aimed at redressal of genuine public harm or public injury. The petitioner should be in a position to demonstrate that he is moving the process of law for the benefit of unrepresented or under-represented strata of the society. [Vide *Ayaubkhan*

Noorkhan Pathan Vs. State of Maharashtra & Ors., (2013) 4 SCC 465 & State of Uttaranchal Vs. Balwnt Singh Chaufal & Ors., (2010) 3 SCC 402].

13. On the basis of the averments in the present petition, particularly in view of the fact that the issue sought to be raised by the petitioner has already been given a quietus, we are unable to hold that the petition is aimed at redressal of any public wrong or public injury.

14. Hence, we are not inclined to entertain the writ petition and the same is accordingly dismissed. No costs.

CHIEF JUSTICE

RAJIV SAHAI ENDLAW, J.

SEPTEMBER 14, 2014

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