

\$~

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

+ LPA 1076/2011

RAJEEV DHAWAN Appellant
Through: Appellant-in-person
versus

CPIO, (SH. N. JAYARAMAN) & ANR. Respondents
Through: Mr. Jagat Arora, Advocate

% Reserved on : 26th November, 2013
Date of Decision: 6th February, 2014

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE MANMOHAN

J U D G M E N T

MANMOHAN, J:

1. Present letters patent appeal has been filed challenging the judgment and order dated 12th October, 2011 passed by learned Single Judge whereby appellant's writ petition being W.P.(C) 4149/2011 was dismissed by a common order. It is pertinent to mention that by virtue of the impugned order dated 12th October, 2011, appellant's three writ petitions were dismissed.

2. At the outset, learned counsel for respondents stated that the present appeal had to be disposed of in accordance with the judgment and order dated 16th April, 2013 passed by another Division Bench of this Court whereby appellant's appeal being LPA No. 1043/2011 arising out of the same impugned order dated 12th October, 2011 had been dismissed. The

relief sought by the appellant in W.P.(C) 2529/2011 out of which LPA No. 1043/2011 arose reads as under:-

- “1. Under the circumstances stated hereinabove your petitioner most humbly and respectfully prays that The gracious Hon’ble Court may please to cancel/set aside the order dated 28.6.2010 passed by the authorities of The Central Information Commission (enclosed as Annexure “O” with this Writ Petition).*
- 2. That A Writ in the nature of Mandamus do issued Commanding the CPIO of PNB to provide all the true and correct certified copies of all the documents/files/ registers/records/correspondence/ file notings regarding the entire process of appointment under compassionate employment scheme of the bank for the period of 2002-2003 and 2003-2004. This would include the applications received from candidates, the processing of those applications, the final decision of the competent authority in each case, all the correspondence done by the bank authorities with the family of the applicant and all the communications done by the bank authorities with their different offices (i.e Regional Office, Zonal Office, Head office etc.) as directed by the Hon’ble Central Information Commission vide order dated 14.12.2009.*
- 3. That A Writ in the nature of Mandamus do issued Commanding the CPIO of PNB to provide all the true and correct certified copies of all the above stated documents to the petitioner free of cost (as enshrined in section 7(6) of the RTI Act 2005).*
- 4. That The Hon’ble High Court is most humbly prayed to take strict penal actions and disciplinary against the CPIO Sh. N. Jayaraman of PNB as enshrined U/s 20 of The RTI Act 2005 as the CPIO of PNB earlier (vide letter no. MARD/RTI/305/2008 dated 2.4.2009) deliberately and with malafide intentions refused to provide information to the petitioner under the RTI Act 2005 by giving false and lame excuses.*

5. *That The Hon'ble High Court is most humbly prayed to take strict penal actions and disciplinary against the CPIO Sh. S.K. Mohla of PNB U/s 20 of The RTI Act 2005 who (vide letter no. MARD/RTI/APPEAL/38/2008 AND O5 & O8/2009 dated 3.2.2010) deliberately and with malafide intentions refused to provide information to the petitioner under The RTI Act 2005 by giving false and lame excuses even after the clear orders of The Hon'ble Central Information Commission dated 14.12.2009.*
6. *That due to such kind of illegal attitude of the CPIO of PNB, the petitioner could not get true and correct information in time as a result of which he could not get employment on compassionate grounds in PNB and still unemployed and unmarried even at the age of 35 years. Therefore The Hon'ble Court is prayed to provide exemplary compensation and Costs of this petition to the petitioner U/s 19.(8)(b) of the RTI Act 2005 from the CPIO Sh. N. Jayaraman and CPIO Sh. S.K. Mohla of PNB for deliberately denying information to the petitioner by giving false and lame excuses."*

3. However, appellant who appears in person stated that the present case was not covered by the judgment of the Division Bench of this Court in LPA No. 1043/2011. In this connection, he stated that the said Division Bench though being aware of the present appeal had not disposed of the same vide judgment and order dated 16th April, 2013. He also referred to the observation of the Division Bench in paragraph 9 of LPA No. 1043/2011 wherein it had observed as under:-

"9..... We are satisfied that the real grievance of the appellant is with respect to denial of compassionate appointment to him, and that issue is subject matter of another appeal, i.e., LPA No. 1076/2011."

4. However, on a perusal of the paper book we find that even in W.P.(C) 4149/2011, the appellant/petitioner had prayed for similar reliefs. The relief sought in W.P.(C) 4149/2011 are reproduced hereinbelow:-

- “1. *Under the circumstances stated hereinabove your petitioner most humbly and respectfully prays that The gracious Hon’ble Court may please to cancel/set aside the order dated 28.6.2010 Passed by the authorities of The Central Information Commission (enclosed as Annexure “G” with this Writ Petition).*
2. *That The Hon’ble Court is also prayed to order the bank authorities to provide true and correct information as requested by the petitioner vide his RTI Application dated 2.3.2009 and order them to disclose the names of all the liar authorities of Punjab who fabricated the false list pertaining to 116 pending applications and The CPIO of PNB Sh. S. Jayaraman provided that false list to the petitioner vide letter no. MARD/RTI/ APPEAL/15/2008 DATED 15.1.2009 (even after the orders of The Central Information Commission).*
3. *That A Writ in the nature of Mandamus do issued Commanding the CPIO of PNB to provide all the true and correct certified copies of all the documents/files/ registers/records/correspondence/ file notings regarding the entire process of appointment under compassionate employment scheme of the bank for the period of 2002-2003 and 2003-2004. This would include the applications received from candidates, the processing of those applications, the final decision of the competent authority in each case, all the correspondence done by the bank authorities with the family of the applicant and all the communications done by the bank authorities with their different offices (i.e Regional Office, Zonal Office, Head office etc.) as directed by the Hon’ble Central Information Commission vide order dated 14.12.2009.*

4. *That A Writ in the nature of Mandamus do issued Commanding the CPIO of PNB to provide all the true and correct certified copies of all the above stated documents to the petitioner free of cost (as enshrined in section 7(6) of the RTI Act 2005).*
5. *That The Hon'ble High Court is most humbly prayed to take strict penal actions and disciplinary against the CPIO Sh. N. Jayaraman of PNB as enshrined U/s 20 of The RTI Act 2005 as the CPIO of PNB earlier (vide letter no. MARD/ RTI/302/2008 dated 2.4.2009) deliberately and with malafide intentions refused to provide information to the petitioner under the RTI Act 2005 by giving false and lame excuses.*
6. *That The Hon'ble High Court is most humbly prayed to take strict penal actions and disciplinary against the CPIO Sh. S.K. Mohla of PNB U/s 20 of The RTI Act 2005 who (vide letter no. MARD/RTI/APPEAL/38/2008 AND O5 & O8/2009 dated 4.3.2010) deliberately and with malafide intentions refused to provide information to the petitioner under The RTI Act 2005 by giving false and lame excuses even after the clear orders of The Hon'ble Central Information Commission dated 14.12.2009.*
7. *That due to such kind of illegal attitude of the CPIO of PNB, the petitioner could not get true and correct information in time as a result of which he could not get employment on compassionate grounds in PNB and still unemployed and unmarried even at the age of 35 years. Therefore The Hon'ble Court is prayed to provide exemplary compensation and Costs of this petition to the petitioner U/s 19.(8)(b) of the RTI Act 2005 from the CPIO Sh. N. Jayaraman and CPIO Sh. S.K. Mohla of PNB for deliberately denying information to the petitioner by giving false and lame excuses.*
8. *The Hon'ble High Court is also prayed to provide the petitioner the cost of This petition and any other relief which The Hon'ble Court feels is just for the fastest Justice."*

5. Consequently, this Court is of the view that reliefs sought in W.P.(C) 2529/2011 and W.P.(C) 4149/2011 are similar. In fact, learned Single Judge in the impugned order after dismissing W.P.(C) 2529/2011 had recorded the petitioner's statement as under:-

"26. The petitioner states that the position in W.P.(C) 4149/2011 is the same.

27. Accordingly, W.P.(C) No. 4149/2011 is also dismissed."

6. Accordingly, present appeal is dismissed in accordance with the judgment dated 16th April, 2013 passed in LPA 1043/2011. It is clarified that in paragraph 9 of judgment in LPA 1043/2011 there is a typographical error inasmuch as LPA No. 1076/2011 has been wrongly mentioned.

7. Before parting with the matter we would like to mention that we are deeply anguished and disturbed by the derogatory and contemptuous language used by the appellant against the learned Single Judge in the appeal. The grounds of appeal are directed not against the impugned order but personally against the learned Single Judge.

8. No judge is infallible and the order passed by him may or may not be correct, but to say that the impugned order has been passed by the learned Single Judge to protect the corrupt or that it constitutes contempt or it contains false statement, is scandalous. The Supreme Court in ***Haridas Das vs. Usha Rani Banik (Smt.) and Others Apu Banik, (2007) 14 SCC 1*** has rightly observed as under:-

" Judge bashing" and using derogatory and contemptuous language against Judges has become a favourite pastime of some people. These statements tend to scandalise and lower the authority of the courts and cannot be permitted because, for

functioning of democracy, an independent judiciary to dispense justice without fear and favour is paramount. Its strength is the faith and confidence of the people in that institution. That cannot be permitted to be undermined because that will be against the public interest.

2. Judiciary should not be reduced to the position of flies in the hands of wanton boys. Judge bashing is not and cannot be a substitute for constructive criticism.

xxxx

xxxx

xxxx

xxxx

29. Considered in the light of the aforesaid position in law, a bare reading of the statements makes it clear that those amount to a scurrilous attack on the integrity, honesty and judicial competence and impartiality of Judges. It is offensive and intimidating. The contemnor by making such scandalising statements and invective remarks has interfered and seriously shaken the system of administration of justice by bringing it down to disrespect and disrepute. It impairs confidence of the people in the court. Once door is opened to this kind of allegations, aspersions and imputations, it may provide a handle to the disgruntled litigants to malign the Judges, leading to character assassination. A good name is better than good riches. Immediately comes to one's mind Shakespeare's Othello, Act II, Scene iii, 167:

“Good name in man and woman, dear my Lord is the immediate jewel of their souls; who steals my purse, steals trash; it's something, nothing; 'T was mine, it's his, and has been slate to thousands; But he that filches from me my good name,

Robs me of that which not enriches him

And makes me poor indeed.”

30. Majesty of law continues to hold its head high notwithstanding such scurrilous attacks made by persons who feel that the law courts will absorb anything and everything, including attacks on their honesty, integrity and impartiality. But it has to be borne in mind that such divinity and magnanimity is not its weakness but its strength. It generally ignores irresponsible statements which are anything but legitimate criticism. It is to be noted that what is permissible is legitimate criticism and not illegitimate insinuation.

No court can brook with equanimity something which may have tendency to interfere with the administration of justice. Some people find judiciary a soft target because it has neither the power of the purse nor the sword, which other wings of democracy possess. It needs no reiteration that on judiciary millions pin their hopes, for protecting their life, liberty, property and the like. Judges do not have an easy job. They repeatedly do what rest of us (the people) seek to avoid, make decisions, said David Pannick in his book Judges. Judges are mere mortals, but they are asked to perform a function which is truly divine.

9. Though this Court was inclined to initiate criminal contempt of Court proceedings against the appellant, but keeping in view the fact that he might be emotionally involved with the present case, this Court has refrained from doing so.

10. We are of the opinion that until and unless immediate action is taken, judge bashing will become the norm and it would be very difficult to preserve and protect the institution of judiciary. The Supreme Court in similar circumstances in ***Bhuvneshwar Singh vs. Union of India and Others, (1993) 4 SCC 327*** has observed as under:-

“3. The appellant has appeared in person before us and made his submissions in Hindi, not being familiar with the court language. We suggested to him that we could provide him the assistance of an advocate through the Legal Aid Board or request one of the advocates to appear for him, amicus curiae, without any financial burden on him, but the appellant did not want the assistance of any counsel and insisted on arguing the matter himself. Not being conversant with the procedure of the Court or the law, the appellant took time to argue on matters, which were strictly speaking not relevant, and in spite of our advising him to allow us to appoint a counsel for him, in his own interest, he remained adamant and therefore a lot of judicial time, which could have been utilised for other work, was spent by us in trying to grasp his grievances, in which task, Mr Reddy the learned Additional Solicitor General gave us his valuable assistance. Taking note of

the increase in the number of cases in which the parties appear in person in this Court, we feel that a stage has now reached when this Court, on the administrative side, is required to consider the desirability of providing some procedure to scrutinise their petitions and screen the parties, appearing in person, and only such of the parties who are certified by an authority/committee as “competent” to assist the Court in person, may, with the leave of the Court, be permitted to argue in person. Those of the litigants, who are not so certified, or those to whom leave is not granted by the Court, should be referred to the Legal Aid and Advice Board or the “Supreme Court Senior Advocates Free Legal Aid Society”, which is a voluntary body and offers assistance, in appropriate cases, irrespective of the financial position of the concerned litigant. Apart from providing proper assistance to the court, the assistance by the lawyers would ultimately tend to be in the interest of the litigants themselves. It would also take care of preventing objectionable and unparliamentary language in the pleadings, which some of the ‘parties in person’ permit themselves the liberty of indulging in, not being familiar with the court craft and the bounds of law within which the parties must formulate their pleadings in proper language. Such a course would advance public interest while safeguarding individual interest also. Our experience shows that every advocate — senior, not so senior and junior — whenever requested by the Court to offer assistance has responded positively and generously and therefore the interest of the ‘party in person’ who would be represented by such a counsel would stand adequately protected. We say no more on this aspect at this stage.

11. The relevant portion of the Supreme Court Rules, 1966 which lay down the practice and procedure to be followed in the Supreme Court read as under:-

**ORDER IV
ADVOCATES**

6 (b) No advocate other than an advocate on record shall be entitled to file an appearance or act for a party in the Court.

xxxx

xxxxx

xxxx

xxxx

10. No advocate other than an advocate on record shall appear and plead in any matter unless he is instructed by an advocate on record.

xxxx xxxx xxxx xxxx
17. No person having an advocate on record, shall be heard in person save by special leave of the Court.

18. No advocate on record shall authorise any person whatsoever except another advocate on record, to act for him in any case.

12. The Gujarat High Court Rules provide that a Committee of judges belonging to the District Court shall first scrutinise the matter/proceedings filed by a party-in-person and only if the said Committee certifies the party-in-person to be competent, can such a person appear in Court.

13. Consequently, we request the High Court on the Administrative Side to frame relevant Rules, for presentation of proceedings by parties-in-person.

MANMOHAN, J

CHIEF JUSTICE

FEBRUARY 06, 2014

rn/js