

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 9402/2014 and CM APPL 21243-21244/2014**

Decided on: 24.12.2014

IN THE MATTER OF:

DURGA PRASAD KAR Petitioner
Through: Mr. Vishnu Sharma, Advocate with
Ms. Anupama Sharma and Mr. Niraj Kumar
Jha, Advocates

versus

UNION OF INDIA AND ORS Respondents
Through: Mr. Sanjay Jain, ASG with
Mr. Sanjeev Narula, CGSC and Ms. Pallavi
Shali and Mr. Ajay Kalra, Advocates

CORAM
HON'BLE MS.JUSTICE HIMA KOHLI

HIMA KOHLI, J. (Oral)

1. The present petition has been filed by the petitioner, who claims that he has no personal stake in the matter and "is a public spirited person in the position of relator", praying *inter alia* for quashing the order dated 03.11.2014 passed by the Government of India, whereunder the respondent No.2 has been appointed to the post of Chairperson, CBDT.

2. At the outset, it has been enquired from learned counsel for the petitioner that if the petitioner, who was serving as an IRS officer till he had superannuated in the year 2009, is of the opinion that the

appointment of the respondent No.2 to the post of Chairperson, CBDT is liable to be quashed and set aside for valid reasons, then why has he not sought issuance of a writ of *quo warranto* in respect of the said appointment. Further, it has been enquired from learned counsel that if it is the petitioner's stand that he does not have any personal interest in the matter and is taking up a public cause, being a public spirited person, then why has he not elected to file a public interest petition.

3. After addressing arguments for some time, learned counsel for the petitioner seeks leave to withdraw the present petition while reserving the right of the petitioner to take appropriate legal recourse in accordance with law.

4. At this stage, Mr. Sanjay Jain, learned ASG states that the petitioner is nothing but a proxy litigant for one Shri S.K. Srivastava, who has filed a series of criminal cases in the Noida Courts, UP, before the Central Administrative Tribunal and in this Court, seeking several reliefs against the respondent No.2. He states that the counsel appearing for Shri S.K. Srivastava is the very same counsel, who has filed the present petition and the orders passed in the petition filed by Shri S.K. Srivastava are being relied upon by the petitioner herein and are enclosed with the present petition, which only goes to show that the petitioner is in cahoots with the aforesaid gentleman, who has

been specifically debarred by the Supreme Court from filing any civil or criminal case or complaint before any court or authority without the explicit permission from the said Court in terms of the order dated 08.12.2014 passed in **W.P.(C) 1010/2014** entitled Shumana Sen and Anr. Vs. S.K. Srivastava and Anr.

5. The aforesaid submission is disputed by learned counsel for the petitioner.

6. Having regard to the fact that the petitioner has sought leave to withdraw the present petition, this Court refrains from making any observations on the merits of the case, but reserves the right of the respondent No.2 to take all the pleas in opposition as may be available to it at the appropriate stage.

7. Leave, as prayed for by the petitioner, is granted. The petition is dismissed as withdrawn alongwith the pending applications. As and when the petitioner files a fresh petition, the same shall be considered in accordance with law.

DECEMBER 24, 2014
rkb

(HIMA KOHLI)
JUDGE