

HON'BLE SRI JUSTICE S.V. BHATT

WRIT PETITION No.39353 OF 2014

ORDER:

The petitioner prays for Mandamus declaring the action of respondent No.2 in issuing notices vide RC-5(E)2014/CBI/BS&FC/BLR dated 11.12.2014 and RC-3(E)2014/CBI/BS&FC/BLR dated 15.12.2014 through which the respondents called upon the petitioner to appear on 23.12.2014 at 10.00 hours, as arbitrary, illegal and unconstitutional.

Heard Sri D.V.Seetharam Murthy, learned senior counsel for the petitioner and Sri P.Keshava Rao, learned standing counsel for 2nd respondent.

Learned senior counsel submits that the impugned notices called upon the petitioner to be present at 10.00 hours on 23.12.2014 in the office of SP, CBI, BS&FC, 2nd Floor, No.36, Bellary Road, Ganganagar, Bangalore. The appearance by the petitioner in respect of two different cases before two officers at same time is arbitrary and illegal. The timing for appearance through notices reflects non-application of mind. It is stated that the notices are issued under Section 160 of the Criminal Procedure Code. Admittedly the notices are issued in respect of two distinct crimes registered by the C.B.I. To expect the petitioner to appear simultaneously before both the officers at the given time is impracticable and impossible. Therefore, the submission of the learned senior counsel for the petitioner is that the issuance of notices should be practicable and pragmatic and on this short ground the notices are liable to be set aside.

Learned standing counsel representing 2nd respondent, submits that the crimes under investigation, no doubt, are two, but these alleged offences relate to one concern. The officers, having regard to the request made by the individuals who are being investigated, have fixed the schedules and if a request is made before the officers for spacing the time, the same will be appropriately considered. It is forcibly contended that the writ against a notice under Section 160 of Criminal Procedure Code, more particularly with the objection on spacing of time is misconceived. It is stated on instructions the spacing of time if requested by petitioner the officer(s) will consider the request. Having regard to the statement made by the learned standing counsel, I do not see any arbitrariness or illegality in the notices issued, more particularly, by prescribing appearance at 10.00 hours on 23.12.2014. The petitioner is given liberty to request the investigating officer(s) and on the request of petitioner the investigating officer(s) will take a practical decision in the matter.

The writ petition is dismissed. No order as to costs.

Miscellaneous petitions, if any, pending in the writ petition shall stand closed.

S.V.BHATT, J

Date:22.01.2015
Klp