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

+ **W.P.(C) 5239/2013**

SATISH CHANDRA

..... Petitioner

Through: Mr B.B. Gupta, Mr. Udyan Srivastava
and Mr.Sanyam Khetarpal, Advocate

versus

BRIJESH KUMAR GUPTA

..... Respondent

Through: None

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

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27.04.2015

1. There is no representation on behalf of the respondent today. The position was no different on the previous date i.e., 22.04.2015. I had indicated in the previous order, the limited point which had been raised by the learned counsel for the petitioner. For the sake of convenience, the relevant paragraphs are extracted hereinbelow :-

“..4. The record shows that the counter affidavit has not been filed by the respondent. The respondent is neither present in court nor is he represented.

4.1 Therefore, the respondent is proceeded exparte.

5. The limited point, according to Mr. Gupta, which arises is, the failure of the CIC to issue notice to the petitioner before passing the impugned order in appeal preferred by the respondent. To be noted, the petitioner was arrayed as respondent no.3 in the appeal filed before the CIC by the respondent.

5.1 Mr. Gupta says that on this short ground, the impugned order should be set aside, and that the matter be remanded to the CIC for a fresh hearing. It is also the learned counsel's contention that if this court is persuaded to hold as contended above, arguments on merit can be addressed before the CIC.

6. Prima facie, there appears to be a substance in Mr. Gupta's submissions. However, since the respondent has been proceeded ex parte only today, I am deferring further orders in the matter.

7. List on 27.04.2015..."

2. In view of the contentions raised before me by Mr. Gupta that the petitioner herein who was impleaded as respondent no.3 was not called upon by the Central Information Commission (CIC) to file his return in the matter before passing the impugned order, I intend to set aside the order.

3. Accordingly, the impugned order dated 16.07.2013 is set aside. The matter is remanded to the CIC for fresh determination. The CIC will issue notice to the parties before hearing the appeal of the respondent herein.

4. The writ petition is accordingly disposed of.

RAJIV SHAKDHER, J

APRIL 27, 2015

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