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IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 818/2016

SHAHBUDEEN P.

..... Petitioner

Through: Mr. A.K. Nigam, Advocate with
Mr. G.P. Singh, Advocate.

versus

UNION OF INDIA & ORS

..... Respondents

Through: Ms. Monika Arora, Advocate with
Ms. Nidhi Mohan Parashar and
Ms. Anumita Chandra, Advocates
for respondents No.1 to 3.

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Date of Decision: 08th February, 2016.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

J U D G M E N T

MANMOHAN, J: (Oral)

CM Appl. 3607/2016 (exemption) in W.P.(C) 818/2016

Allowed, subject to just exceptions.

W.P.(C) 818/2016

1. Present writ petition has been filed challenging the letter dated 28th November, 2015 issued by respondents No.1 to 3 in compliance of judgment dated 23rd November, 2015 whereby the respondents informed that petitioner's application for emigration clearance of its workers cannot be processed unless the petitioner's name is cleared in ongoing investigation

with respect to the case of unauthorised records reported by Tata Consultancy Services.

2. Learned counsel for petitioner states that the aforesaid letter has not only adversely affected the scope of earning of the petitioner, but has also deprived the workers of the petitioner of their fundamental rights to earn their livelihood as they had obtained permission from the respondents and are entitled to proceed to their places of work after obtaining emigration clearance, which is a mere formality.

3. Learned counsel for petitioner also states that the Tata Consultancy Services is not entitled under the Emigration Act to take any action.

4. However, a perusal of the additional documents filed by the petitioner reveals that Tata Consultancy Services had complained that certain recruiting agents had tweaked the Web browser and created unauthorised records in respect of foreign employers and also raised demands.

5. It is stated by learned counsel for respondent-UOI that Tata Consultancy Services subsequently deleted around 3500 demands (PTs) from the system after removing the bug in the system.

6. The additional papers filed by the petitioner also reveal that a criminal case is pending investigation with the Economic Offences Wing. The letter written by the Under Secretary to the Government of India to the Project Director, TCS dated 11th September, 2015 is reproduced hereinbelow:-

“
No.1(18)/emigrate/Project Go-Live (part)
Government of India
Ministry of Overseas Indian Affairs

Akbar Bhawan, New Delhi
Dated the 11/09/2015

To

*Shri Satish Dubey,
Project Director, TCS
eMigrate Project.*

Sub: Deletion of demands raised unauthorisedly in eMigrate system.

Sir,

It has come to our notice that TCS has deleted around 3500 demand (PTs) from the system, which were entered by some RAs wrongly by taking advantage of some bug in the system. An email was accordingly sent at 4.13 p.m. to Mr. Awasthi of TCS to investigate the matter and advise accordingly. No response has been received. You are requested to investigate the matter thoroughly and submit a report.

Yours faithfully,

*(Bikash R. Mahato)
Under Secretary to the Government of India”*

7. Consequently, this Court is of the view that a very serious allegation of tweaking the web browser has been made by the Tata Consultancy Services which operates the eMigrate Project for Ministry of Overseas Indian Affairs.
8. In the opinion of this Court, Section 14 of the Emigration Act, 1983, which provides for suspension of recording agents is attracted to the facts of the present case.
9. In any event, this Court is of the view that the precautionary principle must be adhered to till the investigation is completed inasmuch as 3500 demands placed by the recruiting agents have been found to be fictitious and were subsequently deleted.

10. Consequently, the petitioner is not entitled to any relief. Accordingly, present petition is dismissed.

MANMOHAN, J

FEBRUARY 08, 2016

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