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

+ W.P.(C) 1105/2016 & C.M.No.4837/2016

KIRTI AZAD & ORS

..... Petitioners

Through Mr.Ram Jethmalani, Sr.Advocate
with Ms.Lataa Krishna Murthy,
Mr.Amit A.Pai, Mr.Anish L.Shah,
Mr.Rahat Bansal, Mr.Anirudh Anand
and Mr.Shashank Bhansal,
Advocates.

versus

DELHI DISTRICT CRICKET ASSOCIATION & ORS

..... Respondents

Through Mr.Sangram Patnaik with Mr.Rajiv
Gupta, Advocates for DDCA.
Mr.N.K.Kaul, ASG with
Mr.R.Balasubramaniam and
Mr.Sanyat Lodha, Advocates for R-4.
Mr.Sanjay Jain, ASG with Mr.Rajuj
Jain, Mr.Shreshth Jain and
Ms.Natasha Thakur, Advocates for
UOI.
Mr.Ajay Arora with Mr.Dinesh
K.Puchnanda, Advocates for MCD.
Mr.Rahul Mehra, Sr.Standing
Counsel with Mr.Gautam Naryan,
ASC for GNCTD.
Mr.Ishaan Madaan, Advocate for R-
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Date of Decision: 09th February, 2016

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

J U D G M E N T

MANMOHAN, J: (Oral)

1. Present writ petition has been seeking a court-monitored investigation by the CBI in preliminary investigation file no.5845/PE(S)/15/SCU-II/CBI/New Delhi into high level of corruption in respondent no.1-DDCA or to constitute a Special Investigation Team to investigate into the mismanagement by the officials of DDCA. A prayer has also been made for issuing an appropriate writ directing the Union of India to cancel the privileges like subsidized land, etc. that have been extended to respondent no.1 and to ensure that no loss is caused to the exchequer.
2. Mr.Ram Jethmalani, learned senior counsel for the petitioners points out that the fact-finding inquiry committee in its report dated 29th December, 2014 has concluded that the magnitude and extent of improprieties, irregularities and misconduct committed by various officials mentioned in the report is quite complicated, gigantic and it is upto the Executive Committee of the Association to take it to its logical conclusion.
3. Learned senior counsel for the petitioners also refers to certain portions of the report submitted by Justice (Retd.) Mukul Mudgal, Former Chief Justice Punjab & Haryana High Court to contend that deficiencies were found in the preparation of the Fourth Test Match and functioning of DDCA. In the said report, Justice (Retd.) Mukul Mudgal has held that the tendering system was not transparent in the past and there was poor record keeping and delay in payment of bills, and that allotment of corporate boxes and naming of the pavilions and

stands need to be renewed as well as the other aspects i.e finance/accounts wing, defunct sub-committees, ticketing etc. need to be re-examined.

4. On the other hand, Mr.Neeraj Kishan Kaul, Additional Solicitor General for CBI states that a preliminary inquiry has already been registered by the CBI on 23rd October, 2015 and the matter is under investigation. He submits that the present writ petition is pre-mature as the alleged malpractices pertain to the period 2008-2014. He states that the CBI has asked for documents from DDCA and has received some of them. He further states that certain documents have also been asked for from certain other organizations and some of them are still awaited. He also states that 18 witnesses have been examined till date.

6. Mr.Sanjay Jain, Additional Solicitor Jain, appearing on advance notice for UOI, states that other sport bodies like DLTA have been given land at the concessional rate on the same basis. He points out that the policy on the basis of which subsidized land has been made has not even been challenged in the writ petition.

7. In rejoinder, Mr.Ram Jethmalani, learned senior counsel for the petitioners submits that since the information furnished by the petitioners discloses a cognizable offence, the CBI must register an FIR and this Court must monitor the investigation as well as constitute a special investigation team to investigate the mismanagement by officials of DDCA.

8. Having heard learned counsel for the parties, this Court is in agreement with the submission of Mr.Neeraj Kishan Kaul, Additional

Solicitor General for CBI that the present writ petition is pre-mature as the preliminary inquiry has been registered only on 23rd October, 2015 and CBI has not had reasonable time to investigate the case, especially keeping in view the fact that the allegations pertain to the period 2008-2014. In the opinion of this Court, inquiry of such a magnitude cannot be expected to be completed in three months.

9. This Court is confident that CBI shall investigate all the aspects of the matter including the two reports referred to by Mr. Ram Jethmalani, learned senior counsel for the petitioners, in accordance with the law.

10. This Court is also of the opinion that a special investigation team as well as a court-monitored investigation should be ordered in the rarest of rare cases and not for the asking and that too, on the sole ground that the petitioners have an apprehension that CBI would not investigate the matter fairly as some of the allegations are directed against a sitting Union Minister. Neither any basis for the apprehension nor any allegations against any official of the CBI have been made in the present writ petition. After all, CBI is a premier investigating agency and in the past, it has successfully investigated the conduct of various sitting ministers.

11. Consequently as the preliminary inquiry has been registered and investigation is continuing, this Court is of the opinion that the present writ petition is not maintainable. Moreover, this Court is of the view that as the policy on the basis of which subsidized land has been made available to all sports bodies, has not been challenged, even prayer (b) in the present writ petition cannot be granted.

Accordingly, the writ petition along with the pending application is dismissed.

MANMOHAN, J

FEBRUARY 09, 2016
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