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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 3478/2014

HERO MOTO CORP LTD.

Through

..... Petitioner

Mr. Pawan Duggal with Mr. Somnath
De, Advocates

versus

CONTROLLER OF CERTIFYING

AUTHORITIES AND ANR

Through

..... Respondents

Ms. Seema Sharma with Mr. Vakul
Sharma, Advocates**CORAM:****HON'BLE MR. JUSTICE MANMOHAN****ORDER****23.02.2016**

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Present writ petition has been filed with the following prayers:-

- “a) *Pass a direction setting aside/quashing the impugned order vide letter dated 29th/30th January, 2014 bearing F.No.17(4)2013-CCA/3182 passed by the Office of the Controller of Certifying Authorities.*
- b) *Pass a writ or direction in the nature of mandamus directing the respondents specifically Respondent no. 1 to entertain the complaint of the petitioner under Section 28 & 29 of the Information Technology Act, 2000 dated 30-12-2013 and decide the same on merits, after giving effective opportunity of being heard to the petitioner.*
- c) *Pass a writ or direction in the nature mandamus directing the Respondent no. 1 to fulfil its statutory obligations under Section 28 & 29 of the Information Technology Act, 2000 and to take up for investigation the contraventions of the*

provisions of the Information Technology Act, 2000 as also rules regulations made thereunder as detailed in the complaint of the petitioner dated 30-12-2013.

- d) Pass a writ or direction in the nature of mandamus directing the Respondent no. 1 to dispose of the complaint under Section 28 & 29 of the Information Technology Act, 2000 in accordance with the provision of Information Technology Act, 2000 after investigating the matter as prayed under Section 28 & 29 of the Information Technology Act, 2000.*
- e) Any other order which this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case, may also be passed."*

Learned counsel for respondents states that similar petitions have been disposed of by a Coordinate Bench of this Court giving a direction to the Union of India to make appointment to the office of President / Chairman / Chairperson of the Cyber Appellate Tribunal [for short "CAT"]].

The relevant portion of the order dated 3rd December, 2015 passed in W.P.(C) 4019/2013 and connected matters referred to by learned counsel for respondents is reproduced hereinbelow:-

"3. This Court in the order dated 15th October, 2015 in W.P.(C) No.6714/2015 titled Bharti Airtel Ltd. Vs. Sandeep Chaware and other connected petitions has already issued directions for time bound appointment of the President / Chairman / Chairperson and members of the CYAT and in light thereof has disposed of those petitions. Similar order was thereafter issued in W.P.(C) No.2702/2014 titled IDBI Bank Ltd. Vs. M/s Shreeniwas Signs Pvt. Ltd. on 16th October, 2015.

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5. Rather than keeping these petitions pending in this Court, it is deemed appropriate to dispose of the same, continuing the interim orders already in force and by relegating the petitioners to the appellate remedy before the CYAT and which appellate remedy is stated to have been already invoked.

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7. In the circumstances, the petitions are disposed of with the following directions: (i) The Director, IB and the DC concerned are directed to send the verification reports to the Ministry of Information Technology within two weeks from today. A copy of this order be handed over to the counsel for the UOI for onward transmission to the Director, IB and to the DC concerned for compliance. (ii) The Ministry of Information Technology to immediately, within one week of receipt of the verification reports, put up the proposal to the Department of Personnel and Training (DOPT) for in turn putting up the same for the approval of the Appointment Committee of the Cabinet (ACC). (iii) The ACC is requested to ensure that the proposal so put up before it is considered at the earliest and latest within one month of receipt thereof. The counsel for the UOI to forward a copy of this order to the DOPT for putting it along with the proposal to be put up before the ACC. (iv) Once the Tribunal is constituted/functional, it is requested to take up the appeals of the petitioners and / or at least the applications for interim relief for hearing at an early date. (v) The interim orders made by this Court in these petitions are subject to further orders of the CYAT and the amounts deposited in this Court shall be governed by the further orders of the CYAT."

Keeping in view the aforesaid order as well as the fact that a petition seeking similar reliefs is maintainable before CAT, this Court disposes of the present petition with liberty to petitioner to file a fresh petition before CAT within six weeks from today as CAT is likely to be constituted on or before 31st March, 2016.

MANMOHAN, J

FEBRUARY 23, 2016

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