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

+ **W.P.(C) 2747/2016 & CM No.11563/2016**

NG P MOYON

..... Petitioner

Through : Mr. D.K. Singh, Advocate with
Mr. Rajinder Kumar, Advocate

versus

UNION OF INDIA AND ORS

..... Respondents

Through : Mr. Ajay Digpaul, Advocate

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

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30.03.2016

1. This order is in continuation of the order dated 29.3.2016, on which date, counsel for the petitioner had stated that the petitioner is aggrieved by the order dated 16.3.2016 of the Assembly of General Force Court under SSB Act, 2007, that shall commence w.e.f. 1.4.2016, on the ground that one of the members of the General Force Court (GFC) is disqualified from being a part of the GFC in view of the provisions of the Rule 63 (iv) of the SSB Rules, 2009, secondly, the Additional JAG (Litigation) appointed as a Prosecutor under the GFC is disqualified under Rule 63 (iii) and lastly, the provisions of Rule 175 that deals with the procedure laid down for conducting a Court of Inquiry, has been violated by the respondents

inasmuch as the witnesses produced by the prosecution during the Court of Inquiry, had deposed behind the petitioner's back.

2. In view of the aforesaid submissions, counsel for the respondents, who had appeared on advance notice, was directed to obtain instructions and having regard to the paucity of time, the case was adjourned for today.

3. Today, counsel for the respondents produces the original records which we have perused. The said records clearly indicate that the petitioner was not only present when the deposition of the prosecution witnesses was recorded during the Court of Inquiry, but he had even cross-examined the said witnesses. As for the other two pleas taken by the petitioner with regard to improper constitution of the GFC and disqualification of the Additional JAG (Litigation) appointed as a prosecutor, our attention is drawn to Section 96 of the SSB Act, 2007 which falls under Chapter VIII and lays down the procedure of Force Court. As per the said provision, the petitioner shall have an opportunity to object to any officer named as a part of the Force Court and his objection shall be heard and recorded and dealt with.

4. In view of the above, counsel for the respondents is justified in stating that the aforesaid objection taken by the petitioner is premature inasmuch as he would have an ample opportunity to take such a plea when the GFC

convenes on 1.4.2016.

5. At this stage, counsel for the petitioner seeks leave to withdraw the present petition.

6. While cautioning the petitioner to be more careful in future while making averments on oath in the writ petition, which we find are contrary to the records and frowning upon his attempt to misguide the Court by making misstatements in the petition, particularly ground J., leave, as prayed for, is granted.

7. The writ petition is dismissed as withdrawn, along with the pending application.

HIMA KOHLI, J

SUNIL GAUR, J

MARCH 30, 2016

sk/ap