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

+ **W.P.(C) 5330/2016 & CRL.M.A. 22202/2016**

GOPAL K. PAHWA & ANR.

..... Petitioners

Through: Mr Munish Malhotra, Mr Rohit Agarwal
and Mr Achin Mittal, Advocates.

versus

UNION OF INIDA & ORS.

..... Respondents

Through: Mr Vikas Mahajan, CGSC with
Mr S.S.Rai and Mr Amit Mehta,
Advocates for UOI/R-1.
Ms Jyoti Taneja, Advocate for R-2 & R-3.
Ms Tara Ganju, Ms Rashi Bansal and ms
Akanksha Kaul, Advocates for R-5.

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

ORDER

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12.07.2016

The present petition under Article 226 of the Constitution of India prays
as follows:-

- “a. Allow the present petition while directing respondents no.2 & 3 to conduct inquiry into the affairs and working of respondent no.4 association;
- b. Direct the respondent no.2 & 3 to take action on representations given by the members of the respondent no.5 organization;
- c. Quash letter dated 22.04.2016 issued by respondent no.2 & 3 and direct the respondent no.2 & 3 to supervise upcoming elections of the respondent no.5 association,
- d. Or in alternative to prayer (c), appoint a local commissioner/receiver/ administrator at cost of the petitioners to supervise upcoming elections;

- e. Pass any other order as deemed fit and proper in the facts and circumstances of the present case.”

To encapsulate the controversy between the parties, it would be suffice to say that two groups of members of the State Bank of India Officer’s Association (respondent No.5) are at loggerheads over the conduct of an ensuing election scheduled to be held between 19.07.2016 to 28.07.2016.

Whilst the petitioners allege that the entire election process is being mishandled and manipulated to their detriment, the respondent No.5 asserts that the elections are being conducted by an Election Committee strictly in accordance with the rules of the said Association.

However, the contesting parties agree that the ensuing election must be conducted in a free and fair manner, strictly in accord with the rules governing the elections of respondent No.5/Association.

Therefore, without prejudice to the respective rights and contentions of the parties and without addressing the merits of the case as well as the allegations and counter allegations, in the interest of justice and in order of ensure that the ensuing election to the Executive Committee of respondent No.5, in my view, it would be just, necessary and expedient to appoint an independent observer to oversee the said elections.

Accordingly, with the consent of the contesting parties and on their suggestion, Mr Justice V.K.Shali, a retired Judge of this Court, is hereby appointed as the Court Observer for the election to the Executive Committee of respondent No.5 scheduled to be held between 19.07.2016 to 28.07.2016. The Court Observer shall preside at the office of the Election Committee at New Delhi on the dates of the polling of votes at the said election as well as on the dates of counting and declaration of the results.

The Court Observer will be paid a fee of Rs.1lakh per day plus all incidental expenses which shall be borne by the petitioners exclusively. It is

clarified that the Court Observer may secure all necessary assistance as may be required for the conduct of a free, fair and smooth election. The counting of all the ballots as well as the declaration of results will be videographed at the instance of the Court Observer at the expense of the petitioners. The Court Observer will prepare a report of the election held and results so declared. No obstruction will be caused to the Court Observer in the discharge of his duty by anyone.

The above directions have been issued in view of the facts and circumstances as attendant and antecedent in the case today and with the consent of the parties. The directions will not be construed as an expression of an opinion by this court on the merits of the case and will not be a binding precedent.

With the above directions the writ petition is disposed of.

A copy of this order be given *dasti* under signature of Court Master to counsel for the parties to be communicated to the learned Court Observer forthwith.

JULY 12, 2016

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SIDDHARTH MRIDUL, J