

\$~1

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

+

W.P.(C) 8536/2016

ANUJ

..... Petitioner

Through: Mr. Anup Kumar, Advocate

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr. Akshay Makhija, CGSC with Ms.
Mahima Bahl & Mr. Shvi Sanyam,
Advocates for respondent No.1 to 4
Mr. Raghvendra Pandey, Advocate
for GNCTD

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

%

21.11.2016

We had asked learned counsel for the respondents to obtain instructions.

Learned counsel for the respondents submit that, during the pendency of OA No.184/2013, show cause notices ('SCNs') for malpractices/cheating were issued to several successful candidates, including the petitioner. Replies were received and in some cases, adverse orders were passed. It is stated that an SCN was received by the petitioner and he had submitted a reply. Learned counsel for the respondents states that he is not aware whether any reply was received, but no final order has been passed in the

case of the petitioner.

The petitioner had filed OA No.1284/2013, as his candidature has been rejected on the ground that he was not a graduate on the cut-off date and hence not qualified. This aspect has been examined and decided vide judgment dated 15.10.2015 in favour of the petitioner. To this extent, the respondents have accepted the said decision.

The question whether or not the petitioner had indulged in any malpractice etc. was not the subject-matter of OA No.1284/2013. The said issue had arisen subsequently, during pendency of the said OA. As stated by the respondents, SCNs were issued after examining the replies received, adverse orders were passed in some cases. The issue in question regarding the malpractice or copying is now pending before the Supreme Court.

Learned counsel for the petitioner submits that the respondents should have filed a reply to the contempt petition, stating and elucidating the said facts. That may have been advisable. However, in view of the statement now made by the respondents and the factual position accepted by learned counsel for the petitioner affirming that the petitioner had received a SCN, we are not inclined to remit the matter to the Tribunal. The order dated 4.3.2016 passed in CP No.571/2015, therefore, does not require a substantial

interference. The said order records that after the decision of the Supreme Court, the respondents shall proceed in the matter in accordance with law. This takes adequate and proper care of the interests of the petitioner.

In case the petitioner feels that the issue of malpractice or copying should be specifically examined in his case and an order should be passed, he would write a letter to the respondents, enclosing therewith a copy of his earlier reply. We have given the said liberty as here is some controversy whether the respondents had received the reply. Moreover, counsel for the petitioner has stated that the petitioner would like to make a comprehensive reply, meeting the allegation of copying etc. The respondents would examine the said reply and decide the same unless there is any prohibition and stay order has been passed by the Supreme Court, in which case a copy of the order of this Supreme Court would be communicated. In case of an adverse order, the petitioner can challenge the same in accordance with law.

The writ petition is disposed of.

SANJIV KHANNA, J

CHANDER SHEKHAR, J

NOVEMBER 21, 2016/tp