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

+ **W.P.(C) 6824/2016**

VIMAL CHANDRA PANDEY

..... Petitioner

Through: Mr. Vimal Chandra Pandey,
Advocate (Petitioner in person) and
Ms. Shubhra Pandey, Advocate

versus

GNCT OF DELHI AND ORS

..... Respondent

Through: Mr. Rahul Sharma and Mr. C.K.
Bhatt, Advocates for R-1 & 2.
Mr. Parvinder Chauhan, Advocate for
R-3.
Mr. Arav Kapoor, Advocate for R-4.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

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05.08.2016

The petitioner is an aggrieved citizen. His submission is that he fell in a manhole near the LG House and near the residence of the Minister while he was taking on evening walk on 16th September 2015. He had gone to Hindu Rao Hospital for treatment. He was given an Anti Tetanus injection and a bandage was also affixed in his right leg on the next day i.e. 17th September 2015. He had got his right leg x-rayed, he had suffered a fracture. He sent a letter to the Chief Secretary, Government of NCT of Delhi informing about his

mental and physical condition but no action had been taken. He had also informed the concerned Ministers of his treatment at the Trauma Centre, there was swelling in the right leg and he was unable to carry out his duties, he, however, did not receive any response from the Government Authorities. He has sought compensation of Rs.6 Crores before filing this writ petition.

On advance notice, respondents have put in appearance. They are the Government of NCT of Delhi (respondent no.1), Public Works Department (respondent no.2), North Delhi Municipal Corporation (respondent no.3) and TATA Power Delhi Distribution Ltd. Respondent No.3, submits that all sewers and manholes are under the supervision and control of Delhi Jal Board. Delhi Jal Board is not a party here. Respondent No.3 would have no role in this writ petition. Stand of respondents No.1 and 2 is that there are disputed questions of fact which have arisen and as such the claim (if any) of the petitioner cannot be decided in this petition.

A perusal of the writ petition shows that the submission of the petitioner is that he had gone for an evening walk on 16th September 2015 and on that evening he had fallen into a manhole near the residence of the LG and near the house of Ministers, his further submission is that persons had seen him falling at the site. To substantiate this submission, it would be necessary for the petitioner to examine some eye-witnesses as this incident is not admitted by the respondents. It is also not an admitted case that manhole at that point of time was uncovered. The averments in the writ petition also do not disclose any details as to in what manner the petitioner has

computed the figure of Rs. 6 Crore. Apart from the leg fracture purported to have been suffered by the petitioner, there is no other physical injury, which has been reported by him. Details of any emotional, psychological or mental trauma/loss have also not been given. The further averments in the writ petition disclose that an FIR under Section 338 of the IPC had been registered on the complaint of the petitioner/complainant. The criminal case is in progress.

This Court is of the view that since disputed questions of fact have arisen i.e. as to whether the petitioner had fallen into the manhole; whether the manhole was covered or uncovered; what was the nature of the injuries suffered by the petitioner to enable him to set up a claim of Rs.6 Crore in the absence of there being any averment of any emotional, psychological or mental trauma/loss, this Court is of the view that writ petition on this count would not be maintainable. However, since petitioner is aggrieved by the fact that his representation to the government dated 18th September 2015 has not been answered the same shall be answered by respondents Nos.1 and 2 in accordance with law and within an outer limit of four weeks from today. No further orders are called for in this petition.

The petition is disposed of.

INDERMEET KAUR, J

AUGUST 05, 2016

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