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

+ W.P.(C) 8130/2013

SACHIN KUMAR

..... Petitioner

Represented by: Mr.S.K. Gupta, Advocate

versus

UOI & ORS.

..... Respondents

Represented by: Ms.Sunieta Ojha & Mr.Talish
Ray, Advocates

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

% **22.07.2016**

CM No. 6438/2016 (delay)

1. For the reasons stated in the application, the delay of 367 days in filing the counter affidavit is condoned.
2. The application is disposed of.

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1. The petitioner sought an appointment to the post of a Sub-Inspector in a Central Paramilitary Force. The petitioner obtained sufficient marks and as a result he was placed in the merit list at a position where he could have got employment in a Central Paramilitary Force. The petitioner was finally allocated to CISF. The petitioner could not join the Academy at Hyderabad for training and was informed that his dossier had been summoned back. On May 06, 2013, the Staff Selection Commission issued a show cause notice to the petitioner requiring him to show cause as to why he should not be

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debarred from the future examinations/recruitments conducted by the Commission. The show cause reads as under:-

“SHOW CAUSE NOTICE

Subject:- Sub Inspector in CPO's, Assistant Sub Inspector in CISF and Intelligence Officers in NCB Examination, 2011-

Cancellation of candidature-Regarding.

With reference to his/her candidature for the above noted examination, he/she was found that prima-facie he/she was resorted to mal-practices in Paper-I and Paper-II. He/she is directed to explain as to why he/she should not be debarred from all examinations/recruitments conducted by the Commission for a period of five years.

He/she is directed to submit explanation immediately so as to reach this office latest by 15.05.2013 failing which orders for debarment would be issued without any further correspondence to him.”

2. The petitioner responded to the show cause notice pointing out that it was vague. What was the malpractice resorted to by the petitioner in Paper-I and Paper-II were not disclosed to him. The petitioner rightly pointed out that unless the malpractices alleged against him were disclosed, he could not effectively respond to the show cause notice.

3. Purporting to rectify the vagueness in the show cause notice, the respondent issued another show cause notice on May 31, 2013. It reads as under:-

“SHOW CAUSE NOTICE

Whereas Mr./Ms.Sachin Kumar son/daughter of Shri Ramvir Singh residing at the aforesaid address, was a candidate of SI in CAPFs, ASI in CISF & IO in NCB

Examination, 2011 notified in the Employment News dated 28.05.2011.

Whereas Mr./Ms.Sachin Kumar was provisionally called for interview cum personality Test of the aforesaid Examination.

Whereas the Commission undertakes regular post-examination scrutiny and analysis of performance of the candidates in objective type multiple choice question papers with the help of experts, who have proven expertise in such scrutiny and analysis and had carried out such scrutiny and analysis in the case of the written examination papers of the aforesaid examination.

Whereas as informed by SSC (HQrs) incontrovertible and reliable evidence was emerged during such scrutiny and analysis that Mr./Ms.Sachin Kumar had resorted to copying in the said papers in association with other candidates who also took the same examination.

Hence, as directed by SSC (HQrs) Mr./Ms.Sachin Kumar is hereby given an opportunity to show cause within 10 days of issue of this notice as to why his/her candidature should not be cancelled and why he/she may not be debarred for five years from appearing Commission's examinations due to his/her indulgence in unfair means in above mentioned examination.

If he/she fails to respond within prescribed time limit his/her candidature for above mentioned examination will be cancelled and he/she will be debarred for five years from appearing Commission's examinations and there after no further correspondence will be strictly be entertained."

4. The petitioner responded informing that the revised show cause notice continues to be as vague inasmuch as it has not been disclosed to him as to whose answer sheet was copied by him. The petitioner responded informing

as to which multiple choice questions were treated by the respondents as being answered by copying.

5. The writ petition has been filed laying a challenge to the aforesaid two show cause notices.

6. Indeed, both the show cause notices are vague. The allegation of cheating must disclose which candidate's answers were cheated from. In what manner, with reference to the answers given, the Commission opines it to be a case of cheating.

7. In the counter affidavit filed to the writ petition, an attempt has been made to overcome the deficiency but the data given in the counter affidavit gives no clue to the Court and indeed learned counsel for the respondents is handicapped to bring out the point as to how any reasonable person would conclude that it is a case of petitioner resorting to unfair means.

8. The counter affidavit appears to be suggestive of the fact that some technical devices were used by the candidates to answer the questions which were objective in nature.

9. We dispose of the writ petition directing the respondents to issue supplementary show cause notice within six weeks from today. The supplementary show cause notice would list the facts on basis whereof the respondents alleged that the petitioner has resorted to malpractice. The petitioner would be granted four weeks' time to response to the supplementary show cause notice on the basis of which a decision would be taken and communicated to the petitioner. Needless to state if the decision is in favour of the petitioner, legal consequences shall follow. If the decision is against the petitioner he would be entitled to challenge the same in

accordance with law.

10. No costs.

PRADEEP NANDRAJOG, J.

PRATIBHA RANI, J.

JULY 22, 2016

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