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

+ W.P.(C) 4714/2015 & CrL.M.A.No.8526/2015

RASHTRIYA MUKTI MORCHA Petitioner

Through Mr. Vijay Chaudhary, Adv.

Versus

GOVT. OF NCT OF DELHI & ORS Respondents

Through Mr. Sudhir Nandrajog, Sr. Adv. with
Ms. Prabhsahay Kaur, Adv. for R-1 to R-3.

Mr. Sanjay Jain, Sr. Adv. with Mr. Jasmeet Singh,
CGSC, Mr. Srivats, Aastha Sharma, Mr. Sarfaraz
Ahmad, Ms. Ruchi Jain and Mr. Rajul Jain, Adv.
for UOI.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

ORDER

08.09.2016

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1. This petition by way of Public Interest Litigation has been filed challenging the order of the Government of Delhi dated 13.03.2015 appointing the Members of Delhi Legislative Assembly named therein as Parliamentary Secretaries to the Ministers, Government of NCT of Delhi.

2. One of the grounds of challenge is that the said order was passed without communicating the decision to the Lieutenant Governor for his views/concurrence as required under Article 239AA of the Constitution of India.

3. Having considered the very same issue in W.P.(C) No.5888/2015 and batch titled ***Government of NCT of Delhi v. Union of India & Ors.***, by judgment dated 04.08.2016 this Court held that-

"It is mandatory under the constitutional scheme to communicate the decision of the Council of Ministers to the Lt. Governor even in relation to the matters in respect of which power to make laws has been conferred on the Legislative Assembly of NCT of Delhi under clause (3)(a) of Article 239AA of the Constitution and an order thereon can be issued only where the Lt. Governor does not take a different view and no reference to the Central Government is required in terms of the proviso to clause (4) of Article 239AA of the Constitution read with Chapter V of the Transaction of Business of the Government of NCT of Delhi Rules, 1993."

4. The specific plea of the petitioner that the impugned order dated 13.03.2015 was passed without communicating the decision to the Lieutenant Governor for his views/concurrence has not been disputed by the learned counsels appearing for the respondents.

5. Therefore, we find force in the submission of the learned counsel for the petitioner that the issue is squarely covered by the decision in W.P.(C) No.5888/2015 and batch titled ***Government of NCT of Delhi v. Union of India & Ors.*** Accordingly, without going into the other contentions raised in the writ petition, the impugned order dated 13.03.2015 is hereby set aside.

The writ petition is accordingly allowed. No costs.

CHIEF JUSTICE

SANGITA DHINGRA SEHGAL, J.

SEPTEMBER 08, 2016/VLD

W.P.(C) No.4714/2015

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