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

+ W.P.(CRL) 2853/2016

RAVI KUMAR

..... Petitioner

Through : Mr. Ravi Kumar, Adv.

versus

SATBIR BEDI & ORS.

..... Respondents

Through : Mr. R. S. Kundu, ASC with Mr  
Vishesh Wadhwa and Mr. Ankit  
Kumar Gulia, Advs.

**CORAM:**

**HON'BLE MR. JUSTICE A.K. PATHAK**

**ORDER**

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**28.09.2016**

By this writ petition under Article 226 of Constitution of India, petitioner has prayed that sanction of prosecution of respondent nos.1 & 2 be granted, respondent no.3 be directed to register FIR under Sections 13(1)(d)(ii) & 13(1)(d)(iii) of The Prevention of Corruption Act, 1988 against the respondent nos.1 & 2 and further that compensation of ₹10,00,000/- be awarded to him.

Pursuant to an advertisement issued by Central Board of Secondary Education (CBSE), applications were invited from the eligible candidates for the four posts of Assistant Secretary. Petitioner, amongst others, applied for the said post. A preliminary objective test was held wherein

523 candidates appeared. Thereafter, descriptive written test was held followed by Interview. Petitioner has not been finally selected for the said job.

Petitioner has alleged that CBSE has violated all the rules/norms and laws to select certain persons. Unsealed question papers were given to candidates. Short listing criteria was not declared. At the time of interview, marks of written test secured by each candidate were known to the Interview board. Cut off marks were lowered to 25%, after the objective examination to include certain persons. Candidates at the ratio of 1:100 were invited for the descriptive written test as against the norm of 1:10. Even for the interview, ratio of 1:11 for SC category and 1:15 for OBC category was adopted as against the fixed rule of 1:3. Highest marks were awarded to a person with lowest marks in the written test. Candidates, who were having desirable qualifications, were given zero marks; whereas candidates, not having desirable qualification, were given high marks.

This has been done by the respondent nos.1 & 2 for malafide reasons. They coerced the four member interview panel to award only 2 marks out of 20 to the petitioner, in the interview, in order to select one Mr. Rakesh Kumar, who had scored only 60.5% marks in the descriptive test but was

awarded 15 marks in the interview. Corrupt means were adopted to select the favoured candidates.

It is submitted that the above facts disclose the ingredients of Offence under Sections 13(1)(d)(ii) & 13(1)(d)(iii) of The Prevention of Corruption Act, 1988, therefore, respondent no.3 be directed to register FIR under the said provisions after taking sanction.

Section 13(1)(d) reads as under:-

“13. Criminal misconduct by a public servant. -

(1) A public servant is said to commit the offence of criminal misconduct, -

(d) if he, -

(i) by corrupt or illegal means, obtains for himself or for any other person any valuable thing or pecuniary advantage; or

(ii) by abusing his position as a public servant, obtains for himself or for any other person any valuable thing or pecuniary advantage; or

(iii) while holding office as a public servant, obtains for any person any valuable thing or pecuniary advantage without any public interest”

In my view, no averment, worth a grain of salt, are there in the writ petition, disclosing the offences under section 13(1) (d) (ii) or 13 (1) (d) (iii) of the Act. Bald and vague allegations have been levelled, inasmuch as, no

material has been placed on record to suggest that respondent nos.2 and 3, by abusing their official position as public servants obtained any valuable or pecuniary advantage. As per the petitioner, proper selection criteria was not followed and in fact, during the course of hearing, it is brought to the notice of court that petitioner has assailed the selection process in W.P(C) No.836/2016 which is pending. Whether recruitment was made as per the rules or not is a subject matter to be decided in the said petition. As regards, registration of FIR is concerned, no case is made out within the ambit and scope of Sections 13(1)(d)(ii) & 13(1)(d)(iii) of The Prevention of Corruption Act. No case for grant of compensation in this writ petition is also made out.

For the foregoing reasons, writ petition is dismissed.

**A.K. PATHAK, J.**

**SEPTEMBER 28, 2016/dk**