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

+ W.P.(C) 1105/2017 and CM No. 5049/2017 (stay)

VIKAS KUMAR

..... Petitioner

Through Mr. Sachin Chauhan, Advocate.

versus

C I S F THR ITS D G CISF AND ORS

..... Respondents

Through Mr. Dev P. Bhardwaj, Advocate
along with and Mr. Bhupender Singh,
DC, CISF for respondents.

CORAM:

HON'BLE MS. JUSTICE INDIRA BANERJEE

HON'BLE MR. JUSTICE ANIL KUMAR CHAWLA

ORDER

% **10.02.2017**

CM No. 5050/2017 (Exemption)

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(C) 1105/2017 and CM No. 5049/2017 (stay)

A preliminary objection has been raised by Mr. Bhardwaj appearing on behalf of the respondents, to the territorial jurisdiction of this Court, to entertain the writ petition.

The petitioner has been appointed as Sub Inspector of the Central Industrial Security Force, after being selected through a selection process.

As part of the selection process, a written examination was held at Rajkiya Pratibha Vikas, Vidyalala, Sector-10, Dwarka (Near Metro Station, Sector-11), New Delhi-110075 within the jurisdiction of this High Court on 28.08.2011. It is stated that after the petitioner cleared the written examination, the petitioner was subjected to a Physical Endurance Test and a medical examination. The petitioner also appeared for an interview on 09.01.2012.

At the time of the written examination, the physical endurance test, the medical examination and the interview, the petitioner was required to affix his thumb impression. A charge sheet dated 23.09.2016 has been issued *inter alia* alleging that the petitioner instead of appearing in person for the written examination that was held at Rajkiya Pratibha Vikas, Vidyalala, Sector-10, Dwarka (Near Metro Station, Sector-11), New Delhi-110075 on 28.08.2011 had arranged for some other person to impersonate on his behalf and take the written examination.

May be as contended by Mr. Bhardwaj, the disciplinary proceedings are being conducted in the State of Tamilnadu. However, apart from the fact that the Headquarters of the Central Industrial Security Force are located at Lodhi Road, New Delhi within the jurisdiction of this Court, the entire charges relate to impersonation in an examination held in New Delhi within the jurisdiction of this Court. It cannot be said that this Court lacks territorial jurisdiction. Reference may be made to the Full Bench Judgment of this Court in “***M/s Sterling Agro Industries Ltd. Vs. Union of India***” reported in 181 (2011) DLT 658 where a five Judge Bench presided over by Deepak

Mishra, C.J. held that “even if a miniscule part of cause of action arose within the jurisdiction of the High Court, the High Court would have jurisdiction.” In view of Article 226(1) a writ may be issued to any authority located within the jurisdiction of the High Court. The question of cause of action arises when the authority is not located within the jurisdiction. In this case, the CISF Headquarters are within the jurisdiction of this Court. That apart the charges against the petitioner relate to alleged misconduct committed in Delhi within the jurisdiction of this Court. We thus hold that this Court has territorial jurisdiction to entertain the writ petition. No affidavits need be given.

In this writ petition, the petitioner has challenged the charge sheet being memorandum dated 23.09.2016 including the articles of charge and imputation of misconduct and also for quashing and setting aside of an order dated 05.01.2017 whereby the request of the petitioner for being provided the attested copies of documents relied upon by the respondents has been rejected.

So far as the first prayer is concerned, the grounds on which, a charge sheet can be set aside are limited. A charge sheet may be set aside for want of jurisdiction, patent violation of statutory requirements or when the allegations in the charge sheet do not make out any misconduct. In this case, it cannot be said that the allegations in the charge sheet do not make out any misconduct. It cannot also be said that the charge sheet has been issued by an authority which lacked jurisdiction.

Whether the allegations are correct or frivolous is altogether a different issue which has to be decided in the enquiry after giving the

petitioner an adequate opportunity of hearing. Needless to mention that the petitioner would also be entitled to avail the statutory appeals, revisions etc.

So far as the second prayer is concerned, for the effective opportunity of defence, the petitioner is undoubtedly entitled to the documents.

By the order dated 05.01.2017 also impugned in this writ petition, the request of the petitioner for providing him attested copies has been declined. It is true that there is no rule which requires that attested copies have to be supplied, of documents to be relied upon at the Enquiry. However, when a dispute has been raised with regard to the authenticity of the copies, justice demands that the copies should be authenticated to enable the petitioner to effectively pursue his case.

The order dated 05.01.2017 is set aside. The respondents are directed to supply the petitioner with authenticated/attested copies of all documents on which the respondents intend to rely in the enquiry.

The writ petition is disposed of. Pending application shall also stand disposed of. Needless to mention that the documents shall be supplied to the petitioner, at least five days before the next date of hearing of the enquiry.

Copy of the order be given *dasti* under the signature of the Court Master.

INDIRA BANERJEE, J

ANIL KUMAR CHAWLA, J

FEBRUARY 10, 2017

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