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

+ W.P.(C) 9903/2016

MOHAN SINGH SHARMA Petitioner

Through : Petitioner in person.

versus

UNION OF INDIA Respondent

Through : Mr.Ripu Daman Bhardwaj,
CGSC, Mr. Sahaj Garg and
Mr. T.P.Singh, Advs. for
R-1.

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE C.HARI SHANKAR

ORDER

% **05.07.2017**

1. The writ petitioner who appears in person submits that once a Member of Parliament, Member of Legislative Assembly, Minister takes oath, then during his/her office he/she should be prohibited from participating in any political activities except to cast vote. In this regard, reliance is placed on Section 171 of the Indian Penal Code. The petitioner contends that this Section prohibits any public servant from participating in any political activities except to cast his/her vote.

2. Placing reliance on Section 171(A) of the IPC, the writ petitioner has made the following prayer:

“(a) Direct the respondent to treat the M.P./M.L.A. as Public Servant with the meaning of Section 171A of IPC and also give the direction to prohibits the MPs/MLAs for participating in any Political activities during the tenure of their offices.”

3. We extract hereunder the provisions of the Indian Penal Code invoked by the writ petitioner, which reads as follows:

“171. Wearing garb or carrying token used by public servant with fraudulent intent.—Whoever, not belonging to a certain class of public servants, wears any garb or carries any token resembling any garb or token used by that class of public servants, with the intention that it may be believed, or with the knowledge that it is likely to be believed, that he belongs to that class of public servants, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both.

171A. “Candidate”, “Electoral right” defined.—For the purposes of this Chapter—

(a) “candidate” means a person who has been nominated as a candidate at an election;

(b) “electoral right” means the right of a person to stand, or not to stand as, or to withdraw from being, a candidate or to vote or refrain from voting at any election.”

4. Clearly the writ petition is not premised on the statutory provisions referred therein. It also does not complain that any statutory or other rights of the petitioner have been breached.

This writ petition is, therefore, devoid of any legal merit and is hereby dismissed. As a result the application filed alongwith is also dismissed.

ACTING CHIEF JUSTICE

JULY 05, 2017/mr

C.HARI SHANKAR, J