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

+ W.P.(C) 5730/2017 & CM. No. 23892/2017

RAJPAL MITTAL Petitioner
Through: Ms. Anusuya Salwan, Adv.

versus

UNION OF INDIA & ANR Respondents
Through: Mr. Vikrant Nilesh Goyal, Adv. /
Govt. Pleader for R1.
Mr. T.K. Ganju, Sr. Adv. with
Mr. Aditya Vijay Kumar, Mr. Aquib
Ali, Mr. Manik Ahluwalia and
Mr. Abhishek Bhardwaj, Advs. for
R2.

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER
% **11.07.2017**

Mr. T.K. Ganju, learned Sr. Counsel appearing for the respondent no.2 has taken a preliminary objection on the maintainability of the writ petition in view of the judgment of the Division Bench of this Court in ***National Agricultural Co-operative Marketing Federation of India Ltd. v. Nafed Processed Food Cooperative Marketing Federation of India Employees Union and Ors. reported as 90 (2001) DLT 754*** wherein the Division Bench of this Court held that the NAFED is not a State within the meaning of Article 12 of the Constitution of India and the writ petition is not maintainable. He also refers to three orders dated 19th November, 2015

passed in three different petitions, relying on the judgment of the Division Bench of this Court in ***National Agricultural Co-operative Marketing Federation of India Ltd. (supra)***.

On the other hand, Ms. Anusuya Salwan, learned counsel appearing for the petitioner would rely on the judgment of the Supreme Court in the case reported as ***2015 (13) SCALE 622, Dr. Janet Jeyapaul v. SRM University and Ors.*** to contend an authority discharging public function shall be amenable to the jurisdiction of this court under Article 226 of the Constitution of India. She also states the judgment of the Division Bench of this Court in ***National Agricultural Co-operative Marketing Federation of India Ltd. (supra)*** is a judgment of 2011 and the status of NAFED has undergone a change after 2011 which would show that NAFED is discharging public function. The learned Sr. Counsel appearing for respondent no.2 disputes this contention of learned Counsel for the petitioner. I note, there are no averments in the writ petition in that regard.

At this stage, learned counsel for the petitioner seeks to withdraw the writ petition with liberty to file a fresh petition with better particulars in that regard.

The petition and the application are dismissed as withdrawn with liberty as prayed for.

V. KAMESWAR RAO, J

JULY 11, 2017/jg