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

+ W.P.(C) 1264/2017

UNION OF INDIA AND ORS.

..... Petitioners

Through Mr. J.K. Singh, Standing Counsel for the
Railways.

versus

SHIV KUMAR

..... Respondent

Through Nemo.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

21.03.2017

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Affidavit has been filed by the petitioners.

2. Learned counsel for the petitioners has relied upon *Avtar Singh versus Union of India and Others*, (2016) 7 Scale 378. As per this judgment, the authorities, i.e., the petitioners had to apply their mind to the allegations in the FIR and then decide whether in view of the pendency of the said criminal case the respondent should or should not be appointed.

3. The Tribunal in the impugned order has referred to FIR No. 212/2010 registered at Police Station I.P. Estate, New Delhi under Sections 420, 468 and 471 of the Indian Penal Code. The pendency of the said FIR was not concealed and was duly intimated by the respondent.

4. As per the counsel for the petitioners, neither charge sheet nor closure report has not been filed by the police. Investigation was still pending as per

the letter dated 6th August, 2015 submitted by SI Mohit Malik of Police Station I.P. Estate.

5. Counsel for the petitioners submits and accepts that as per information received, even today, the charge sheet has not been filed. The fate of the investigation is unknown.

6. Thus, even after seven years, the involvement or commission of any offence by the respondent, has not been established or proven.

7. In this situation and looking at the conduct of the petitioners, who have not examined the nature of allegations in the FIR, etc. and had also not tried to ascertain the facts with regard to the involvement of Shiv Kumar, and whether he had submitted a forged driving licence, we are not inclined to interfere with the impugned order. The writ petition is dismissed.

SANJIV KHANNA, J.

CHANDER SHEKHAR, J.

MARCH 21, 2017
VKR