

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

Date of Order: December 06, 2017

+ **W.P.(C) 9649/2015**

VIVEK KUMAR Petitioner
Through: Mr. Rahul Sinha and Mr. Nitin K.
Gupta, Advocates

versus

STAFF SELECTION COMMISSION & ORS Respondents
Through: Ms. Sunieta Ojha and Mr. Talish
Ray, Advocates for respondent No.2

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

1. Vide impugned order of 27th January, 2014 (*Annexure P-14*), petitioner has been debarred for a period of three years from taking the Staff Selection Examination and his candidature for the Combined Recruitment for Assistant Grade-III, in General, Depot, Technical and Accounts Cadres and Hindi Posts (AG-II) in Food Corporation of India Examination, 2012 has been cancelled.
2. It is the case of respondents that petitioner was found to be indulging in unfair means in the said Examination. Prior to impugned order, a Show-cause Notice of 10th June, 2013 (*Annexure P-5*) was served upon petitioner, which was responded to by petitioner vide Reply of 20th June, 2013 (*Annexure P-6*). To seek quashing of impugned order (*Annexure P-7*), learned counsel for petitioner relies upon this Court's

Division Bench decision in *Staff Selection Commissioner & Anr. v. Sudesh* 2014 SCC OnLine Del 7534, which has been affirmed by Supreme Court vide its order of 19th July, 2017 in *Civil Appeal No(s). 2836-2838/2017* titled *Staff Selection Commission, Thr. its Chairman & Anr. v. Sudesh*. The stand taken by contesting respondent-*Staff Selection Commission* in its counter-affidavit is as under:-

"In similar post examination analysis cases related to Combined Graduate Level Examination, 2012, the Commission has also filed an SLP No(s). 9019-9021/2015 in the Supreme Court against order dated 19.12.2014 in WP No. 9055/2014, CM NO. 20669/2014 passed by Hon'ble High Court of Delhi at New Delhi, which is sub-judice wherein the Hon'ble Supreme Court has issued Notice and stayed the operation of the Impugned Order. The Order passed by the Hon'ble Supreme Court in SLP No(s). 9019-9021/2015 dated 06.04.2015 is annexed herewith and marked as ANNEXURE-R-1

In view of the averments made herein above and those to be urged at the time of arguments, the present writ petition may be disposed off as the Respondent will consider the case of the Petitioner and all other similar case as and when the issue of post examination analysis is decided by the Hon'ble Supreme Court."

3. Learned counsel for petitioner submits that despite taking the aforesaid stand, respondents have not reconsidered petitioner's case in light of Supreme Court's decision in *Sudesh (supra)* although review sought by respondents has been also dismissed on 31st October, 2017.

4. In the facts and circumstances of this case and in view of the stand taken by respondent-*Staff Selection Commission* in the counter affidavit, as noted hereinabove, this petition is disposed of, with direction to

respondent-*Staff Selection Commission* to re-consider impugned order (*Annexure P-7*) in light of this Court's Division Bench decision in *Sudesh (supra)*, which has been affirmed by Supreme Court vide its order of 19th July, 2017, within a period of six weeks and its outcome be conveyed to petitioner within two weeks thereafter, so that petitioner may avail of the remedies as available in law, if need be.

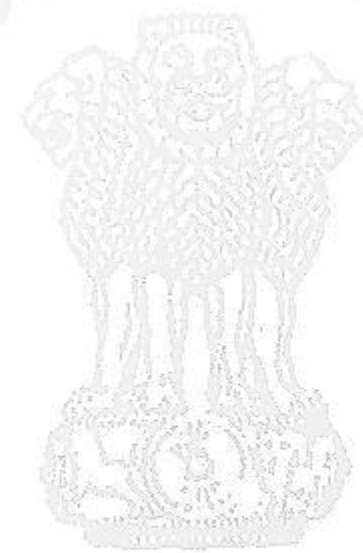
5. With aforesaid directions, this petition is disposed of.

6. Copy of this order be given *dasti* to counsels of both the sides to ensure its compliance.

(SUNIL GAUR)
JUDGE

DECEMBER 06, 2017

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