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

Date of Order : February 26, 2018

+ **W.P.(C) 1780/2018 & CM No.7476-7477/2018**

NARENDER KUMAR

..... Petitioner

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

Versus

STAFF SELECTION COMMISSION AND ORS..... Respondents

Through: Mr. Arun Bhardwaj, CGSC with
Mr. Nikhil Bhardwaj, Advocate for
UIO
Mr. Manoj, Standing Counsel with
Ms. Aparna Sinha, Advocate for
R-3

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

(ORAL)

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1 Quashing of show cause notice of 10th June, 2013 (*Annexure P-1*) and order dated 27th January, 2014 (*Annexure P-2*) vide which petitioner has been debarred for a period of three years from appearing in the Staff Selection Commission examinations, is sought in this petition. Petitioner had appeared in 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 and as per show cause notice (*Annexure P-1*) petitioner had resorted to unfair means of copying in the

said examination. Petitioner's counsel submits that the impugned show cause notice (*Annexure P-1*) was duly replied but impugned order (*Annexure P-2*) does not disclose any pattern which could lead to a reasonable inference of petitioner cheating in the examination. Attention of this Court is drawn to an order dated 19th December, 2014 in W.P.(C) 9055/2014 *Staff Selection Commission & Anr. Vs. Sudesh* (*Annexure P-3*) wherein it has been held that in a case of unfair means, the pattern discerned by the outside experts upon analysis of the answer-sheets of all such candidates is not disclosed and that the disclosed pattern which could lead to a reasonable inference with a very high probability/ near certainty of cheating/malpractice ought to be brought out, so that such candidates are not left in dark and are able to meet the serious allegations levelled against them. It is pointed out that such like show cause notice has been quashed as the basis for alleging malpractice/copying was not disclosed.

2 Learned counsel for petitioner draws attention of this Court to order dated 6th December, 2017 to submit that respondent herein in the said decision had taken the stand that it would consider the case of petitioner and other similarly placed persons as and when the issue of post examination analysis of the examination in question is decided by the Supreme Court in the case of *Staff Selection Commission, Thr. its Chairman and Anr. v. Sudesh*.

3 Learned counsel for the petitioner points out that petitioner's Representation of 22nd January, 2018 (*Annexure P-6*) has not been decided by first respondent till date.

4 In the facts and circumstances of this case, it is deemed appropriate to dispose of this petition with direction to first respondent to pass a speaking order on petitioner's Representation (*Annexure P-6*) within a period of six weeks and thereafter the fate of Representation be known to petitioner within a week, so that petitioner may avail of the remedies as available in law. It is expected that the question of delay and laches would be considered by the first respondent in the light of the stand taken by respondent herein in Civil Appeal No(s). 2836-2838/2017 titled *Staff Selection Commission, Thr. its Chairman and Anr. v. Sudesh*.

5 Needless to say that first respondent shall spell out the pattern discerned on the basis of which it could be reasonably concluded that the petitioner had indulged in cheating in the said examination, so that petitioner may have an effective remedy, if required.

With aforesaid directions, this petition and the applications are disposed of.

Dasti.

(SUNIL GAUR)
JUDGE

FEBRUARY 26, 2018

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