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

+ LPA 589/2018

SUNITA RANI & ANR.

..... Appellants

Through: Mr.Azam Ansari, Advocate

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr.Rajesh Gogna, CGSC for R-1

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

% **29.11.2018**

CM Nos.43457-58/2018 (exemptions)

Allowed subject to just exceptions.

LPA No.589/2018

1. Seeking exception to an order passed by the Writ Court in CM No.16202/2018 in W.P.(C) No.10520/2017 on 24th April, 2018 to the extent of imposing a cost of Rs.10,000/- on the appellants and the subsequent order passed on 5th September, 2018 rejecting application being CM No.36111/2018 seeking waiver of the cost, this appeal has been filed under Clause 10 of the Letters Patent.

2. Appellants herein were respondent Nos.5 and 6 in W.P.(C) No.10520/2017 wherein a notification dated 25th June, 2010 issued by the Central Government was under challenge. On receipt of notice, the

appellants herein moved an application being CM No.16202/2018 before the learned Writ Court to the extent that challenge to the notification earlier made in another writ petition was rejected by a Coordinate Bench of this Court against which leave was granted by the Supreme Court and Civil Appeal Nos.2257/2018 and 2415/2018 were pending. Thus a prayer was made for adjournment of the matter sine die holding that this application has been filed only to delay the proceedings, the same was rejected with a cost of Rs.10,000/- by the learned Writ Court. Seeking waiver of the cost, CM No.36111/2018 was filed which was also rejected.

3. In our considered view, the appellants herein who had filed the application for adjourning the matter sine die due to the pendency of the appeal before Supreme Court had bona fide reasons to do so and it cannot be held that they had done it with ulterior motive or sole intention of getting the matter adjourned. That apart, we are informed that immediately thereafter notification itself was withdrawn by the Central Government and the petition was disposed of taking note of the fact that the application filed by the petitioner for adjourning sine die had justifiable reasons. It cannot be said that the application was filed solely with the motive of delaying the process, in fact, there was reasonable justification on the part of the appellant herein filing the said application and therefore imposing costs of Rs.10,000/- on the appellants herein by the learned Writ Court is in our considered view was not called for.

4. Accordingly the appeal is allowed. Order dated 24th April, 2018 passed in CM No.16202/2018 in W.P.(C) No.10520/2017 imposing costs of Rs.10,000/- on the appellants and order dated 5th September, 2018 passed in CM No.36111/2018 rejecting prayer for waiver of costs stand set aside.

5. However, it is made clear that we have only interfered with the matter pertaining to imposition of costs on the appellants and it shall not give any right to the appellants to seek revival or restoration of the writ petition.

CHIEF JUSTICE

V. KAMESWAR RAO, J.

NOVEMBER 29, 2018

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