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

Date of Decision: 11.12.2019

+ **W.P.(C) 12793/2019 & CM APPL. 52267/2019 (exemption)**

DR. D. S. SINGH

..... Petitioner

Through: **Mr. T.N. Singh with Mr. Vikas K. Singh, Advs.**

versus

**THE INDIAN COUNCIL OF AGRICULTURAL RESEARCH
THROUGH ITS SECRETARY & ORS**

..... Respondents

Through: **None.**

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE C.HARI SHANKAR

D.N. PATEL, CHIEF JUSTICE (Oral)

CM APPL. 52267/2019 (exemption)

Allowed, subject to just exceptions.

W.P.(C) 12793/2019

1. This Public Interest Litigation has been preferred with the following prayers:-

“a) Issue a writ, order or direction in the nature of certiorari by quashing the office order dated 23.04.2019 issued by the Director (HS) for and on behalf of the Secretary, Indian Council of agricultural Research, New Delhi;

b) Issue a writ, order or direction in the nature of mandamus by way of commanding the Central Bureau of Investigation (CBI) or any other independent authority/agency to make thorough

investigation with regard to exact location of Indian Institute of Vegetable Research (IIVR) and submit the report in this regard to this Hon'ble Court by fixing the responsibility of its erring officials/ employees; and

c) Issue a Writ, order or direction in the nature of mandamus thereby directing the respondents, their officers, agents or their representatives or anybody claiming through them to submit all the relevant records to the Central Bureau of Investigation and also co-operate in the investigation to be conducted by the CBI or any other independent authority; and

d) Issue a Writ, order or direction in the nature of mandamus directing the respondent No.1 to recover the excess amount paid to the employees and officers of Indian Institute of Vegetable Research, Jakhini (Shahansapur), Varanasi (U.P.) towards H.R.A. and other allowances in the light of various G.Os. issued by the Government of India from time to time; and

e) Issue a Writ, order or direction in the nature of mandamus by commanding the respondent No.1 to rename Indian Institute of Vegetable Research, Varanasi accordingly on the basis of the report submitted by the Central Bureau of Investigation or any other independent authority; and

f) Award the costs of writ petition in favour of the petitioner.”

2. The petitioner through the present writ petition is requesting directions from this Court for initiation of a Central Bureau of Investigation (CBI) enquiry to ascertain the geographical location of Indian Institute of Vegetable Research (Institute), so that excess amount paid to the employees of the Institute against House Rent Allowance (HRA) may be recovered. It is submitted by the counsel for the petitioner that at present the employees are drawing HRA as per the rate fixed for the District of Varanasi (UP) payable @ 20%, whereas, the Institute is situated in the District of Mirzapur,

wherein, the amount of HRA payable to the employees comes @ 10%.

3. Learned counsel for the petitioner has also submitted that earlier a writ petition being W.P.(C) No.3683/2015 was preferred by this petitioner and the same was disposed of by this Court vide order dated 15.03.2018 with the directions to the concerned respondent authority to pass a detailed speaking order.

4. Accordingly, a detailed speaking order has been passed by the respondent No.1 on 23.04.2019 (Annexure P-12 to the memo of this writ petition).

5. Being aggrieved by the aforesaid speaking order dated 23.04.2009 of respondent No.1/Indian Council of Agricultural Research, the present writ petition has been preferred as a Public Interest Litigation seeking therein for initiation of enquiry/investigation by CBI or any other independent agency to ascertain the actual location of Indian Institute of Vegetable Research (IIVR), as to whether the same is situated in Distt. Varanasi (U.P.) or Distt. Mirzapur (U.P.). The learned counsel for petitioner has submitted that as per the Annexure P-4 annexed to the memo of this petition i.e. revenue records, the Institute in question is situated in Distt. Mirzapur, therefore the HRA should also be payable at the rate applicable for Distt. Mirzapur.

6. Having heard learned counsel for the petitioner and looking to the facts and circumstances of the case, we see no reason to entertain this writ petition mainly for the following facts and reasons:-

- (i) It appears that this petitioner after retirement from the Institute situated in the State of Uttar Pradesh, had earlier filed a writ petition bearing number W.P.(C) No.3683/2015. The said writ petition was disposed of by the learned Single Judge vide order

dated 15.03.2018 in which some observations were made in paras 6 and 7 which read as under:-

“6. In these circumstances, the writ petition is disposed of with the direction to respondent no.1/Indian Council for Agricultural Research (ICAR) to look into the matter since it involves outflow of funds and thereafter, if necessary, take requisite follow up steps. In case, HRA has been wrongly paid, the same will be recovered in accordance with law.

7. I may only note that counsel for respondent no.1 and 2 vehemently objects to the assertion advanced on behalf of the petitioner that the Institute is located in District-Mirzapur (U.P.). As indicated above, respondent no. 1/ICAR will examine the matter and, thereafter, pass a speaking order. A copy of the same will be furnished to the petitioner.”

- (ii) Pursuance to the direction given by this Court in the aforesaid order dated 23.04.2019 passed in W.P.(C) 3683/2015, detailed speaking order was passed by the respondents.
- (iii) As per the impugned speaking order dated 23.04.2019, passed by the respondents (Annexure P-12), the following are the observations recorded in para 3 to para 11 of the said order which are reproduced as under:-

“3. That the Department of Animal Husbandry and the Department of Horticulture, Government of Uttar Pradesh, has earmarked 60 hectares of land in Arazi Lines Farm, Varanasi (40 hectares from the Department of Animal Husbandry and Fisheries, Govt. of Uttar Pradesh and 20 hectares from the Department of Horticulture & Food Processing, Govt. of Uttar Pradesh) for the establishment of Project Directorate of Vegetable Research in Varanasi. Vide letter no. 2994/58-1-92-

783/88 dated 16th June, 1992, Special Secretary, Govt. of Uttar Pradesh, Lucknow communicated to Director, Department of Horticulture & Food Processing, Government of Uttar Pradesh, Lucknow that the Hon'ble Governor of Uttar Pradesh has sanctioned the handing over of 20 Hectares of Land of Department of Horticulture located at Arazi Lines Farm, Varanasi to Indian Council of Agricultural Research for the establishment of Project Directorate of Vegetable Research. Also, vide letter dated 28th December, 1992, Special Secretary, Govt. of Uttar Pradesh, Lucknow communicated to Director, Department of Animal Husbandry, Government of Uttar Pradesh, Lucknow that the Hon'ble Governor of Uttar Pradesh has sanctioned the handing over of 40 Hectares of Land of Department of Animal Husbandry located at Arazi Lines Farm, Varanasi to Indian Council of Agricultural Research for the establishment of Project Directorate of Vegetable Research. Vide Letter no. 639/DDF/6A/AA dated 24th May, 1993, Deputy Director (Farms), Department of Animal Husbandry, Government of Uttar Pradesh, Lucknow instructed Farm Superintendent, Arazi Lines, Varanasi to handover 40 Hectares of Arazi Lines Farm Land, Varanasi to Project Director for establishment of Project Directorate of Vegetable Research. The various internal and external correspondences of both the State Govt. Departments, alongwith PDVR and ICAR (including legal vetting of Lease Deed) clearly indicates that the Project Directorate of Vegetable Research was sought and established in Varanasi. (**Annexure - III: 20 Pages**).

4. That the Institute is not the owner of the land on which the Institute is established. The entire 60 hectares of land on which the Institute is functioning has been provided on lease by the Hon'ble Governor of Uttar Pradesh. Lease deed has been signed between the Govt. of Uttar Pradesh and ICAR- IIVR, Varanasi (erstwhile PDVR) on

10.11.1995 and 23.12.1996 for 30 years. The lease deed dated 10.11.1995 for land measuring 20 Hectares in Arazi Lines Farm, Varanasi was signed between the Department of Horticulture & Food Processing, Govt. of Uttar Pradesh and ICAR- IIVR, Varanasi (erstwhile PDVR). (Annexure -IV: 9 Pages). The lease deed dated 23.12.1996 for land measuring 40 Hectares in Arazi Lines Farm, Varanasi was signed between the Department of Animal Husbandry and Fisheries, Govt. of Uttar Pradesh and ICAR-IIVR, Varanasi (erstwhile PDVR). Thus, the Govt. of Uttar Pradesh allocated the Land to PDVR at Varanasi district only, as is clear from both the Lease Deeds. (Annexure - V: 9 Pages).

5. That the handing over and taking over with both the Departments of the State Govt. was also done for land situated in Arazi Lines Farm, Varanasi. (Annexure - VI: 7 Pages).

6. That every year, the Institute deposits the lease rent of Rs.1/- of each lease deed in the Treasury of Varanasi district (Annexure - VII: 37 Pages).

7. That the electricity connection to the Institute has been provided by the Varanasi Electricity Division (Annexure - VIII: 1 Pages).

8. That the post office of the Institute is situated in Jakhini, Shahanshahpur, Varanasi (Annexure - IX: 3 Pages).

9. That since inception of the Institute, the election duties of the employees of ICAR – IIVR, Varanasi as well as pooling of Vehicles of the Institute during the Parliament and Legislative Assembly elections and other important events, is being assigned by the District Magistrate, Varanasi. (Annexure-X: 10 Pages).

10. That, therefore, for all the Administrative matters, ICAR - IIVR is dependent on the District Varanasi.

11. As per O.M. No. 2(13)/2008E.II(B) dated 29.08.2008, Varanasi City was classified as "Y" Class city (6th CPC) for the purpose of House Rent Allowance @20%, as admissible to Central Government Employees."

- (iv) In view of the aforesaid detailed speaking order, it appears that the respondents have appreciated the documents and evidence on record and reached to the conclusion that the geographical location of the Institute falls in the District Varanasi, State of Uttar Pradesh.
- (v) The aforesaid factual aspects are being controverted by the petitioner who is seeking a CBI enquiry to ascertain the geographical location of the Institute.

7. In view of the detailed speaking order passed by the respondents dated 23.04.2019, we see no reason to give any directions for a CBI enquiry. In our view it is not fit to direct a busy Institution like Central Bureau of Investigation to inquire about the geographical location of the Institute in question. Petitioner can always raise a dispute about the facts and the same can be settled by laying cogent and convincing evidences before a Trial Court.

8. The impugned order passed by the respondents dated 23.04.2019 (Annexure P-12), cannot be said to have been passed, without enough evidence/documents on record. A detailed speaking order has been passed by the respondents after drawing basis from the evidence/documents on record.

9. Hence, we see no reason to exercise our extraordinary jurisdiction under Article 226 of the Constitution of India. There is no substance in this writ petition and the same is hereby dismissed.

CHIEF JUSTICE

C.HARI SHANKAR, J

DECEMBER 11, 2019
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