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

+ W.P.(C) 3407/2019

ROHIT KUMAR

..... Petitioner

Through: Ms. Shantha Devi Raman &  
Ms.Vasvi Shukla, Advocates.

versus

UNION PUBLIC SERVICE COMMISSION  
AND ANR.

..... Respondents

Through: Mr. Naresh Kaushik, Advocate for  
respondent No.1/ UPSC.  
Mr. Anil Grover & Mr. Mishal Vij,  
Advocates for NDMC.

**CORAM:**

**HON'BLE MR. JUSTICE VIPIN SANGHI**

**HON'BLE MS. JUSTICE REKHA PALLI**

**ORDER**

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**04.04.2019**

**C.M. No. 15667/2019**

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

**W.P.(C) 3407/2019 and C.M. Nos.15665-666/2019**

3. The petitioner assails the order dated 05.12.2018 passed by the Central Administrative Tribunal, Principal Bench, New Delhi (the Tribunal) in O.A. No. 4456/2018. The Tribunal has rejected the said Original

Application preferred by the petitioner, wherein he had complained of his answer-sheet being taken away from him before the expiry of the stipulated time of the examination. He claimed that he was deprived of examination time of about four minutes due to which he could not clear the Civil Services (Preliminary) Examination conducted by the UPSC in the year 2018. In his Original Application, he sought the relief that he should be granted one more opportunity to appear in the said examination in the following year. He also claimed compensation of Rs.5 Lakhs. The Tribunal has rejected the Original Application with the reasoning that the said examination was conducted on 03.06.2018 and the petitioner had failed to produce any material to substantiate his allegation that he was deprived of the stipulated time for the examination.

4. The case of the petitioner is that his answer-sheet was taken away four minutes earlier than the stipulated time. He could have utilised the said time to darken the circles on his OMR Sheet. He claimed that he had left the said answers to be attended to at the last since the same does not take much time. He claimed that he had solved more than 90 questions out of the 100 questions and he had already darkened approximately 60 circles in the OMR Sheet and he could not darken approximately 30 more answers which he would have done, if the answer-sheet was not withdrawn from him four minutes earlier. His case in the Original Application as well as in this petition is that other candidates in the same examination were also subjected to the same treatment and they were also pleading with the Invigilators to allow them the requisite time, but to no avail. The petitioner states that on the same day, he dialled No. 100 and reported the matter to the police after

coming out of the examination hall.

5. We may here itself observe that there is no record to show as to for what purpose he had called the No. 100 and what is the nature of the complaint made by him. The petitioner states that he has also sent his complaint on the following day i.e. 04.06.2018 by e-mail to the Secretary, UPSC, wherein he set out in detail the entire incident. Pertinently, no other candidate sitting in the examination hall, allegedly subjected to the same treatment or appears to have raised any grievance similar to that raised by the petitioner.

6. The petitioner raised queries under the Right to Information, Act, one of which was replied on 04.09.2019 by the respondents. The respondents stated that there were no CCTV Cameras used in the examination by UPSC and none among the candidates, except the petitioner, appearing at the said venue had complained that their OMR Sheets had been collected before the scheduled time.

7. The submission of learned counsel for the petitioner is that there were CCTV Cameras and that there was an inquiry conducted by the respondents and a report prepared. She claims that others, like the petitioner, had also made their complaints. There is no basis placed before us to accept these submissions. Clearly disputed questions of fact arise in the present case since the stand taken by the respondent UPSC is to the contrary. Such disputed questions of fact cannot be determined either in the Original Application or even before this Court in judicial review under Article 226 of the Constitution of India.

8. Even otherwise, the claim of the petitioner that he would have answered approximately 30 questions on the OMR Sheet in the last four minutes and that he would have cleared the preliminary examination encapsulates in it several assumptions. Firstly, the assumption is that in the four minutes that were allegedly deprived to the petitioner, he would have answered 30 questions out of 100. Secondly, the assumption is that those 30 questions could have been answered correctly. In our view, the issues raised by the petitioner cannot be adjudicated in writ proceedings.

9. Reliance placed by the learned counsel for the petitioner on *S. Krishna Sradha Vs. State of Andhra Pradesh and Ors.*, (2017) 4 SCC 516 and in particular on paragraphs 26 to 30 is misplaced in the facts of the present case.

10. Dismissed.

**VIPIN SANGHI, J**

**REKHA PALLI, J**

**APRIL 04, 2019**

*B.S. Rohella*