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

Date of Decision: 06.08.2019

+ LPA 511/2019

UNION OF INDIA

..... Appellant

Through: Mr. Aman Lekhi, ASG with
Mr. Ruchir Mishra, Mr. Sanjiv Kr. Saxena,
Mr. Mukesh Kr. Tiwari, Mr. Ramneek Mishra,
Mr. Abhishek Rana & Mr. Rithvik, Advs.

versus

SURENDER SINGH & ORS

..... Respondents

Through: Mr. R.A. Iyer, Adv. for R-1
Mr. Sanjoy Ghose, ASC with Mr. Naman Jain,
Adv. for GNCTD
Mr. Anil Grover, Standing Counsel with
Ms. Kanika Agnihotri, Associate Standing Counsel
with Ms. Noopur Singhal & Mr. Satish Kumar,
Advs. for R-2

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE C. HARI SHANKAR

JUDGMENT

D.N. PATEL, CHIEF JUSTICE (ORAL)

CM APPL.35304-35305 /2019 (*Exemption*)

Allowed, subject to all just exceptions.

Applications stand disposed of.

LPA 511/2019

1. This appeal has been preferred by the original respondent No.4 in

W.P. (C) 6672/2015. The respondent No.1 of this appeal is the original petitioner in W.P. (C) 6672/2015, who instituted the writ petition with the following prayers:

- “i. Quash and set aside the Gazette Notification dated 8.7.2015 issued by the Ministry of Home Affairs in the Gazette of India; and*
- ii. Direct the respondents to cancel the appointment of Shri Karan Singh Tanwar as Member and Vice Chairperson of the New Delhi Municipal Council, the same being in violation of the prescribed procedure,*
- iii. Pass such orders, as the Hon'ble court may deem fit and necessary in the facts and circumstances of the case.”*

2. The scope of the writ petition was a challenge to the appointment of Vice Chairperson of New Delhi Municipal Council only, under Section 4(4) of the New Delhi Municipal Council Act, 1994 (hereinafter referred to as ‘the Act’).

3. The prayer for stay, as in CM APPL.12169/2015 was rejected by the learned Single Judge *vide* order dated 15th July, 2015 (Annexure A-4 to the memo of this appeal). An appeal was preferred by the original petitioner against the aforesaid order but stay was not granted by the Division Bench of this Court *vide* order dated 20th July, 2015 passed in LPA 464/2015 (Annexure A-5 to the memo of this LPA).

4. Looking to the facts of the present appeal, it appears that earlier stay was not granted by the learned Single Judge and, as the appeal was also dismissed against the rejection of the stay application, the Vice Chairperson of New Delhi Municipal Council continues on the post right from the year 2015 onwards till today, and his tenure is said to be upto 2020.

5. The original petitioner (respondent No.1 in this LPA) once again moved, a second time, a stay application bearing CM No.33622/2019 filed LPA 511/2019

in W.P.(C) 6672/2015, in which the earlier rejection of the stay by the Court was not effectively mentioned or highlighted. The learned Single Judge *vide* the impugned order dated 26th July, 2019, passed in CM No.33622/2019 in W.P.(C) 6672/2015, has stayed all appointments under Sections 4(1)(a), 4(1)(d) and 4(4) of the Act.

6. Clearly, the scope of the writ petition was only confined to Section 4(4) of the Act whereas the stay sought for in CM No.33622/2019 against appointments of Chairperson under Section 4(1)(a) and members under Section 4(1)(d) of the Act. In the original writ petition, the basic challenge was against the appointment of the Vice Chairperson only, whereas, in the stay application, the stay sought is for the appointment of “any person”, which includes the Chairperson and Members of the New Delhi Municipal Council.

7. The stay, as prayed, has been granted by learned Single Judge without any reasons and is not a speaking order at all.

8. Hence, we hereby quash and set aside the stay order granted by the learned Single Judge *vide* order dated 26.07.2019 (Annexure A-1 to the memo of the LPA) passed in CM APPL.33622/2019 in W.P.(C) 6672/2015.

9. Since the writ petition is already pending before the learned Single Judge, we are not going into the deep details of this appeal. Suffice it to say, at this stage, that the stay was earlier rejected by the learned Single Judge in the year 2015 and the Vice Chairperson of New Delhi Municipal Council has continued to hold the post from 2015 onwards and his tenure is said to be upto 2020. Thus, the scope of the writ petition has been sought to be expanded in the CM APPL.33622/2019 in W.P.(C) 6672/2015 and as no reasons have been given in the order dated 26th July, 2019 for grant of the stay, hence, this appeal is hereby allowed and disposed of.

10. Needless to mention that the W.P.(C) 6672/2015 will be disposed of by the learned Single Judge on its own merits and in accordance with law and without being influenced by any observation contained in the order passed by us today.

11. With the aforesaid observations, we hereby dispose of this appeal.

CM APPL.35303/2019 (Stay)

12. In view of the order passed in LPA 511/2019, this application also stands disposed of.

CHIEF JUSTICE

C.HARI SHANKAR, J

AUGUST 06, 2019
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