

\$~19

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

+ **W.P.(C) 3407/2015 & CM APPL. 6100/2015,**
CM APPL. 25424/2016

PRATYUSH KANTH

..... Petitioner

Through Mr Rajeev Kumar Yadav, Advocate.

versus

UNION OF INDIA AND ORS

..... Respondents

Through Mr Amit Mahajan, CGSC for UOI with
Ms Mehak Bakshi, Advocates for R1.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **01.05.2019**

1. None appears for respondent nos. 2 to 5, despite service of notice.
2. The petitioner has filed the present petition, *inter alia*, praying that directions be issued to respondent no.1 to grant sanction to prosecute respondent nos. 4 and 5 for misusing the State emblem, in contravention of Section 3 of the State Emblem of India (Prohibition of Improper Use) Act, 2005 (hereafter 'the Act').
3. The petitioner has alleged that respondent no. 5 has issued identity cards bearing the State emblem to various representatives of respondent no.4. It is contended that the same is in violation of the Act. Respondent no.1 (Union of India) has filed an affidavit affirming that respondent no.5 had not sought any permission from respondent no.1 to use the State emblem, and no permission in this regard had been granted. According to

respondent no. 1, respondent no.5 is liable to be punished under Section 7(1) of the Act.

4. It is seen that in terms of Section 8 of the Act, no prosecution can be initiated, without prior sanction of the Central Government. This Court is also informed that the petitioner has already filed an application with respondent no.1 seeking such sanction. The learned counsel appearing for respondent no.1 states that no action on the petitioner's application was taken, on account of pendency of the present petition.

5. In view of the above, the present petition is disposed of by directing respondent no.1 to first of all examine whether there is any violation of the Act, and if so, to consider whether the same warrants initiation of prosecution.

6. Respondent no.1 shall take an independent view in the matter and dispose of the petitioner's application within a period of two months, from today. No further orders are required to be passed in this petition.

7. The petition is, accordingly, disposed of. The pending applications are disposed of.

VIBHU BAKHRU, J

MAY 01, 2019

pkv