

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

Date of decision: February 03, 2020

+ **W.P.(CRL) 308/2020**

PROF. ABDUL GANI BHAT Petitioner

Through: In person.

Versus

MINISTER PARLIAMENTARY AFFAIRS, UNION OF INDIA,
THROUGH: SECRETARY Respondent

Through: Mr. Anil Soni, Central
Government Standing Counsel

CORAM:

HON'BLE MR. JUSTICE BRIJESH SETHI

JUDGMENT

BRIJESH SETHI, J (oral)

The instant petition has been preferred by petitioner *inter alia* seeking a direction to the respondent to restrain ten members from the *erstwhile* State of Jammu and Kashmir from entering Lok Sabha and Rajya Sabha of the Indian Parliament.

Notice.

Mr. Anil Soni, Central Government Standing Counsel, accepts notice for respondent.

Petitioner, present in the Court, submits that on 15th August, 2019, Parliament of India had abrogated a temporary Article 370 of the

Constitution of India and separate status of State of Jammu and Kashmir and reorganized the State into two territories of Ladakh and Jammu and Kashmir. However, four Rajya Sabha members and six Lok Sabha members from the erstwhile State have continued holding their seats in the Indian Parliament illegally and immorally even after 5th August, 2019 when the State of Jammu and Kashmir ceased to exist. It is submitted that they have also been drawing and enjoying facilities and perks on the Union public exchequer without any right, thereby causing loss to the petitioner and citizens of this country and he has, therefore, prayed that these respondents may be directed to stop entering into the Lok Sabha and Rajya Sabha and be also directed to pay back the benefits which might have been received by them after 15th August, 2019 till date.

On the other hand, learned Central Government Standing Counsel, submits that the present petition is not maintainable for the reason that the petitioner ought to have approached the Secretary of Parliamentary Affairs of India or the Speaker of the House before approaching this Court. It is further stated by learned Central Government Standing Counsel that there is no criminal offence involved for which the present writ petition has been filed and in case petitioner is aggrieved, he can take appropriate remedies available to him in law. Moreover the petition has no locus standi to file the present petition.

Heard.

I have considered the rival submissions and find that the present criminal writ petition is not maintainable for the simple reason that the subject matter of the petition does not relate to any criminal law and the W.P.(CRL) 308/2020

contents of the petition does not give rise to any criminal cause of action. The relief sought by the petitioner cannot be granted in a criminal writ petition. The petition in the present form is, therefore, not maintainable. The petition is accordingly dismissed. However, petitioner is at liberty to avail the remedies as available to him under the law.

(BRIJESH SETHI)
JUDGE

FEBRUARY 03, 2020

r

