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IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 07.02.2020

W.P.(CRL) 393/2020.

D.K.CHOPRA

..... Petitioner

Through Petitioner in person.

versus

NCT OF DELHI & ORS

..... Respondents

Through Mr. Ranbir Singh Kundu, Ld.
ASC with Mr. Shivam
Soharan & Mr. Hitesh Vali,
Advocates.
SI Prem Kumar: PS Mehrauli

CORAM:

HON'BLE MR. JUSTICE BRIJESH SETHI

JUDGMENT

BRIJESH SETHI, J.(Oral)

1. Vide the instant writ petition filed under Article 226 of the Constitution of India, petitioner has prayed for deferring the elections of Mehrauli Vidhan Sabha to be held on 08.02.2020 and direction to the CBI to hold enquiry for purchase and sale of tickets in crores and removal of SHO PS Mehrauli.

2. It is submitted by the petitioner that he was given appropriate permission bearing no. 10B/south/R/ACP/Permission/SD dated 21st January, 2020 for conducting rally on

5th February, 2020 at 3.00 p.m. from Andheri Mor till Kallu Ram Chowk, followed by meeting from 5.00 p.m. till 9.00 p.m. at Kallu Ram Chowk, Mehrauli. It is further submitted that based on the said permission, petitioner got published banners, posters and pamphlets and thereby spent around Rs. 60,000/- on its distribution, dissemination, tent arrangements and for tea and food etc. It is further submitted that illegally, the Municipal Corporation of Delhi removed the banner of the said meeting having catchy phrase that 'Croro ki ticket Mehrauli Vidhan Sabha mai lene walo ko moh tor jawab de' at late night on 4th February, 2020 though petitioner was permitted to put forth banners for the said purpose. It is further submitted that when rally began at 3.00 p.m. from Andheri Mor, some persons illegally started wrongfully restraining, harassing and threatening the petitioner, supporters of the petitioners and public and these persons were identified as belonging to congress Party and were hand in glove with SHO Mehrauli Ved Prakash. The matter was reported to police three times but police and Authorized Election Officers failed to enforce law and order. Police Election

Observer-Raja Srivastav scolded the petitioner for calling him with different numbers. Police officials failed to register any case despite taking complaint from petitioner. SHO PS Mehrauli Sh. Ved Prakash being hand in glove with Congress, allowed the party to conduct meeting at the same time and place at Kallu Ram Chowk. It is further submitted that SHO PS Mehrauli had informed the petitioner that SDM has made the last minute changes. However, SDM has denied any such proposal/changes. Thereafter, the matter was again immediately informed to the police officials at 100 no. However no action was taken. The petitioner has, therefore, prayed that elections for Vidhan Sabha scheduled for 08.02.2020 be deferred and he be allowed to hold rally from 5.00 p.m. to 9.00 p.m. on 07.02.2020 at Kallu Ram Chowk and CBI inquiry be ordered into sale and purchase of tickets and SHO PS Mehrauli be removed from his present posting.

3. On the other hand, Ld. APP for the state has opposed the writ petition. He has submitted that there is no reason to interfere in the ongoing election process as nothing wrong was committed

by the Police authority or by officials on Election duty and the present writ petition, therefore, be dismissed.

4. I have heard the rival submissions and gone through the entire material placed on record.

5. So far as prayer of the petitioner regarding permission to organize meeting at Kallu Ram Chowk from 5 pm till 9 p.m. on 7th February, 2020 and deferring of the election of Mehrauli constituency is concerned, this court is of the view that since campaigning has already come to an end on 06.02.2020 i.e. Yesterday, it will not be in the interest of justice to intervene or interfere in the elections process. It is a settled law that court must be very circumspect and act with caution while entertaining any election dispute. The court must guard against any attempt at retarding, interrupting, protracting or stalling of the election proceedings. In **Election Commission of India v. Ashok Kumar & Ors., (2000) 8 SCC 216**, it was held by Hon'ble Supreme Court that the election process includes all the steps and entire proceedings commencing from the date of notification of the election till date of declaration of result. In the absence of

any cogent material on record, there are no grounds to interfere in the election process or defer the election.

6. Petitioner has further prayed that directions be issued to the CBI to hold enquiry for purchase and sale of ticket in crores and SHO PS Mehrauli be removed from service for wrongfully restraining entry of the petitioner and his supporters at Kallu Ram Chowk for holding meeting despite permission. This court is, however, of the view that if petitioner has any grievance regarding sale of tickets or against SHO, he can approach the higher authorities in the Police or Ld. MM for redressal of the same. Reliance in this regard is placed on **Sakiri Vasu vs. State of Uttar Pradesh & Ors, (2008) 2 SCC 409** wherein Hon'ble Supreme court has held as under:-

11. In this connection we would like to state that if a person has a grievance that the police station is not registering his FIR under [Section 154](#) Cr.P.C., then he can approach the Superintendent of Police under [Section 154\(3\)](#) Cr.P.C. by an application in writing. Even if that does not yield any satisfactory result in the sense that either the FIR is still not registered, or that even after registering it no proper investigation is held, it is open to the aggrieved person to file an application

under [Section 156](#) (3) [Cr.P.C.](#) before the learned Magistrate concerned. If such an application under [Section 156](#) (3) is filed before the Magistrate, the Magistrate can direct the FIR to be registered and also can direct a proper investigation to be made, in a case where, according to the aggrieved person, no proper investigation was made. The Magistrate can also under the same provision monitor the investigation to ensure a proper investigation.

7. In view of above law, this court is of the view that petitioner has an alternative efficacious remedy to approach Ld. MM for redressal of his grievance. The relief sought by the petitioner, therefore, cannot be granted by this court. The writ petition is, therefore, dismissed and stands disposed of accordingly.

FEBRUARY 7, 2020

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BRIJESH SETHI, J