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

+ LPA 194/2020

DELHI GOLF CLUB EMPLOYEES UNION Appellant
Through: Ms. Sunita Bhardwaj, Adv.

versus

UNION OF INDIA AND ORS. Respondents
Through: Mr. Vikrant N. Goyal, Adv. for R-1,
2, 3 and 5
Mr. Jawahar Raja, Advocate for R-4.
Mr.Sandeep Sethi, Sr.Advocate with
Mr.Gaurav M.Liberhan, Advocate for
R-6.

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI
HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

% **ORDER**
10.08.2020

C.M. Nos. 17622-17623/2020

1. Exemptions allowed, subject to all just exceptions.
2. The Court fees be paid within a week.
3. The applications stand disposed of.

LPA 194/2020 & C.M. No. 17621/2020

4. The present Letters Patent Appeal is directed against the order dated 24.07.2020 passed by the learned Single Judge in W.P.(C) No.3403/2020 preferred by the appellant. The impugned order reads as follows:

“ Hearing has been conducted through Video Conferencing.

CM APPL. 16265/2020

This Application has been filed seeking exemption from filing duly affirmed/notarised Affidavits and requisite Court Fee. Application is disposed of with a direction to the Applicant to file the same within 72 hours from the date of resumption of regular functioning of the Court.

CM APPL. 16264/2020

This is an Application filed by the Petitioner seeking a stay on the deployment of Contractual Labour in the Food & Beverages Department of the Delhi Golf Club as well as a direction to Respondent No. 6 to allow 59 permanent employees of the Food & Beverages Department of the Club to resume their services, in view of the admitted fact that the Food & Beverages Department is not under closure.

Hearing has been adjourned on the last four dates for arguments on the maintainability of the present Petition and is now fixed on 6th August, 2020.

The present Application cannot be considered till the Court is satisfied that the present Petition is maintainable before this Court.

List on 6th August, 2020.

W.P.(C) 3403/2020

Ms. Sunita Bhardwaj, Learned Counsel for Petitioner submits that she was unable to access the Counter Affidavit sent to her by an e-mail on account of some technical glitch. Another copy of Counter Affidavit will be sent to Ms. Bhardwaj by Mr. Gaurav M. Liberhan, Learned Counsel appearing for Respondent No. 6, during the course of the day.

Further time is sought by Ms. Bhardwaj on this count to file Rejoinder. Time granted by the Court to file Rejoinder on the last date of hearing, i.e. 10.07.2020, is extended on an oral prayer of Ms. Bhardwaj. Let Rejoinder be filed before the next date of hearing.

Mr. Jawahar Raja, Learned Counsel appearing for Respondent No. 4 seeks further time to file Counter Affidavit.

Mr. Vikrant N. Goyal, Learned Counsel appearing for Respondent Nos. 1, 2 and 5 also seeks further time to file Counter Affidavit.

Let Counter Affidavits by Respondent Nos. 1 to 5 be filed before the next date of hearing with advance copies to Ms. Bhardwaj.

List on 6th August, 2020, the date already fixed in the Petition”

5. The grievance of the appellant is that the learned Single Judge did not grant any orders on the stay application, i.e. C.M. No. 16264/2020 on the ground that the aspect of maintainability has to be considered first, in respect whereof the respondents have raised an objection.
6. The submission of Ms. Bhardwaj is that when the writ petition came up before the learned Single Judge on the first date, the matter was adjourned by the Court to enable the petitioner to satisfy the Court with regard to maintainability of the petition. She submits that only after hearing counsels on the aspect of maintainability, notice was issued in the writ petition. She has drawn our attention to the orders dated 09.06.2020 and 12.06.2020 in this regard.
7. We find that the learned Single Judge merely noted the respective submissions of learned counsels on the aspect of maintainability of the writ petition while passing the order dated 12.06.2020. There is no determination of the said issue yet. Mere issuance of notice in the writ petition does not tantamount to acceptance of the submission of the petitioner that the writ petition is maintainable.

8. The impugned order shows that the interim application seeking stay was adjourned to 06.08.2020. We are informed that on 06.08.2020, the matter was adjourned to 31.08.2020 since the pleadings were not complete.

9. Mr. Sethi, learned senior counsel who appears for respondent No.6 on advance notice, has raised a preliminary objection to the maintainability of the present appeal itself. In this regard, he has placed reliance on the decision of this Court in *Mrs. Nisha Raj & Anr. V. Mr. Pratap K. Kaula & Ors.*, ILR (1995) II Del. 281.

10. Ms. Bhardwaj submits that she would like to raise all pleas before the learned Single Judge, and to bring on record before the learned Single Judge the further developments which have taken place on 07.08.2020 when the Government has issued a communication in relation to the matter.

11. It is open to the parties to place before the learned Single Judge all such further developments in an appropriate manner. Both counsels state that neither of them would take any adjournment on the next date of hearing fixed before the learned Single Judge – which is 31.08.2020, and that they shall proceed with the arguments in the matter, including on the aspect of maintainability and on the aspect of grant of interim relief to the petitioner.

12. In view of the aforesaid, we dispose of this appeal in the aforesaid terms.

VIPIN SANGHI, J

RAJNISH BHATNAGAR, J

AUGUST 10, 2020

N.Khanna