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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 5th November, 2020

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W.P.(C) No.7427/2020

SOUTH DELHI TRADE UNIONIST

..... Petitioner

Through: Mr.Rama Shankar, Advocate

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Ms. Amrita Prakash, CGSC for UOI

Mr.Sanjay Ghose, ASC, GNCTD

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE PRATEEK JALAN

JUDGMENT

: **D.N. PATEL, Chief Justice (Oral)**

Proceedings of the matter have been conducted through video conferencing.

1. This Public Interest Litigation has been preferred with the following prayers:

“1. A writ of mandamus or any other writ or direction may kindly passed in favor of petitioner and against the respondents thereby directing the respondents to shift the office of Labour Commissioner, South-East District, Delhi at Welfare Centre, Giri Nagar, Kalkaji, Delhi from Pushpa Bhawan, Delhi.

2. A writ of mandamus or any other writ or direction may kindly passed in favor of petitioner and against the respondents thereby directing the respondent to evict the office of local MLA and also restrain from running the

office of the political party from the building meant for the office of labour commissioner for the District South East, Delhi.

Any other writ or direction may kindly issued in favor of petitioner and against the respondents.”

2. We have issued notice in this writ petition and the detailed counter affidavit has been filed by the respondents. The relevant paragraph of the counter affidavit filed by Respondent No.4/Labour Department, Govt. of NCT of Delhi reads as under:

“2. That vide order dated 05.10.2020, this Hon’ble Court directed the respondents to file their reply/status report in the matter. Pursuant thereto, the Answering Respondent hereby craves indulgence of this Hon’ble Court to submit as follows:

- a. That at the outset, it is submitted that the present petition is wholly misplaced, baseless and an attempt on the part of the Petitioner to mislead this Hon’ble Court, therefore, all such baseless contentions raised by the Petitioner are vehemently denied herein.*
- b. That it is submitted that the Labour Department has created two additional Districts vide order dated 04.10.2018, South-East and Shahdara, in addition to the existing 9 districts, co-terminus with the districts of the Revenue Department. However, due to shortage of officers and staff members, the above mentioned two districts could not be made functional. The South-East district, which is part of South district, is functional from Pushpa Bhawan, Pushp Vihar, Saket.*
- c. That it is further submitted that in the year 2015, Secretariat of the Delhi Legislative Assembly requested for some office space in all the 70 Assembly constituencies of Delhi for its MLAs, which were available and which may be given by the Departments/Local Bodies. The request was acceded*

to by the Government.

- d. That out of the aforesaid 70 locations, two (2) of the office locations pertain to Labour Department — (i) one at Labour Welfare Centre, Giri Nagar, Kalkaji; and (ii) Labour Welfare Centre, DTC Colony, Pratap Nagar. Accordingly, vide order No. 6(414)/CTO/LS/2015/Lab/1354 dated 05.08.2015, Labour Department allotted one (1) room at Giri Nagar, Kalkaji to the then Hon'ble MLA Sh. Avtar Singh on following terms and conditions.*

i The allotment is for the period for which the Hon'ble MLA holds the public office.

ii. The electricity and Water charges should be borne by the office of the Hon'ble MLA. Any other charge/fee to be collected by the Local Body or the Pubic Authority shall also be borne by the office of Hon'ble MLA.

iii. There should not be any subletting or commercial use of the allotted space.

iv. No new construction/alternation or encroachment of the allotted space/premised would be allowed.

v. The allotted space/premises should be used only for public purposes.

(A copy of the order, bearing No. 6(414)/CTO/LS/2015/Lab/1354 dated 05.08.2015 is annexed herewith and marked as Annexure R1).

- e. That the possession of the allotted space was surrendered by the Hon'ble MLA prior to nomination process of Delhi Assembly Elections, 2020. After the Assembly elections, Secretariat of Delhi Legislative Assembly vide letter dated 22.02.2020 requested the Departments/Autonomous bodies to allot office space for constituency offices to newly elected Hon'ble MLAs on behalf of Delhi Assembly Secretariat. Accordingly vide order dated 04.03.2020, the office space which was earlier allotted to Ex-MLA, Sh.Avtar Singh was allotted to newly elected MLA Smt. Atishi*

with the same terms and conditions as mentioned above.

(A copy of the letter dated 22.02.2020 issued by the Delhi Assembly Secretariat is annexed herewith and marked as Annexure-R2)

(A copy of the letter dated 04.03.2020 issued by the Delhi Assembly Secretariat is annexed herewith and marked as Annexure-R3.)

- f. That it is further clarified that there is enough space available at Giri Nagar, Kalkaji, however, due to shortage of manpower, the same could not be made functional.*
- g. That it is also submitted that the present office of District South at Pushpa Bhawan, Pushp Vihar has been functional now for more than 14 to 15 years, when the office of Dy. Labour Commissioner South shifted from Giri Nagar, Kalkaji to Pushpa Bhawan, Pushp Vihar, Saket.*
- h. It is respectfully submitted that enforcement of minimum wages is one of the mandated works of the Answering Respondent and Office of Deputy Labour Commissioner (South) at Pushpa Bhawan, Pushp Vihar, Saket is effectively taking care of the same for entire South district. It is further submitted that Labour Department has created two additional districts coterminous with Revenue Districts, however, the same could not be made functional due to manpower shortage and the two districts shall start functioning with the availability of requisite manpower.”*

3. Learned counsel for the petitioner submitted that the office of the Labour Commissioner should be shifted from Pushpa Bhawan, Pushp Vihar, Saket to Welfare Centre, Giri Nagar, Kalkaji, Delhi. From a reading of the

counter affidavit, it appears that the Labour Commissioner has created two additional districts vide order dated 04.10.2018, namely, South-East and Shahdara which are in addition to the existing nine districts, co-terminus with the districts of the Revenue Department. It also appears from the facts of the case that this is an administrative and policy decision of the respondents, based upon the shortage of available staff, that at present the Labour Commissioner Office will work from Pushpa Bhawan, Pushp Vihar, Saket, New Delhi. There is no such right vested in the petitioner that the office of the Labour Commissioner must be working from Welfare Centre, Giri Nagar, Kalkaji, Delhi. Looking to the administrative exigencies, particularly the shortage of staff as stated by the respondents, and the other reasons which are stated in the counter affidavit, at present the office of the Labour Commissioner is working from Pushpa Bhawan, Pushp Vihar, Saket, New Delhi and hence, we see no reason to issue any directions, much less a writ of mandamus, directing the Respondent/GNCTD to shift the office of the Labour Commissioner from Pushpa Bhawan, Pushp Vihar, Saket, New Delhi to Welfare Centre, Giri Nagar, Kalkaji, Delhi.

4. Nonetheless, Respondent/GNCTD is at liberty to start the office of the Labour Commissioner from Welfare Centre, Giri Nagar, Kalkaji, Delhi looking to the need of the people at large and if the other circumstances permit them to do so. However, this will depend upon the facts and circumstances of the case and the policy decision to be taken by the respondent/GNCTD.

5. It has further been argued by the learned counsel for the petitioner that, instead of establishing the office of the Labour Commissioner, the MLA of the concerned constituency is running her office from the Welfare

Centre, Giri Nagar, Kalkaji, Delhi. We are not in agreement with this contention. Looking to the counter affidavit filed by respondent No.4, it appears that only one room has been assigned to the MLA.

6. In this set of circumstances, we see no reason to entertain this petition and the same is therefore dismissed with the observation that if the Government of NCT of Delhi takes a policy decision to shift the office of the Labour Commissioner from Pushpa Bhawan, Pushp Vihar, Saket, New Delhi to Welfare Centre, Giri Nagar, Kalkaji, Delhi or if the Government of NCT of Delhi wants to start an office from Welfare Centre, Giri Nagar, Kalkaji, Delhi, they are always permitted to do so, looking to the pressing need of the society and the administrative exigencies.

7. With these observations, the writ petition is disposed of.

CHIEF JUSTICE

PRATEEK JALAN, J

NOVEMBER 5, 2020
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