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

+ **W.P.(C) 9705/2020 & C.M.Nos.22144-22145/2021**

**NIRMAN MAZDOOR SHAKTI SANGATHAN THROUGH ITS
GENERAL SECRETARY MR. S.A. AZAD Petitioner
Through Mr.A.Lohia, Adv.**

versus

**THE STATE OF NCT OF DELHI & ORS. Respondents
Through Ms.Urvi Mohan, Adv. for DBOCWW
Board.
Mr.Ripu Daman Bhardwaj, SPP with
Mr.Kushagra Kumar, Adv. for CBI.**

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Date of Decision: 26th July, 2021

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE NAVIN CHAWLA

J U D G M E N T

MANMOHAN, J: (Oral)

1. The petition has been heard by way of video conferencing.
2. The present petition has been filed with the following prayers:-

"(a) Grant a writ of the nature of mandamus or any other writ, order or direction of similar nature directing the Respondents to furnish the details of organisations to whom they have given the funds and the manner in which the said funds has been distributed.

(b) Grant a writ of the nature of mandamus or any other writ, order or direction of similar nature directing the Respondents to carry out their obligations in accordance with the law and to take appropriate action, including the distribution of the said fund for the amelioration of the workers.

(c) Grant a writ of the nature of mandamus or any other writ, order or direction of similar nature directing the Respondents to carry out their duties in accordance with law and more specifically according to the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 and the Building and Other Construction Workers Welfare Cess Act, 1996.

(d) Grant a writ of the nature of mandamus or any other writ, order or direction of similar nature, thereby directing the Central Bureau of Investigation to investigate the irregularities and corrupt practices in the functioning of the Delhi Building and Other Construction Worker Welfare Board and in collection of cess.

(e) Grant a writ of the nature of mandamus or any other writ, order or direction of similar nature, thereby directing the Anti-Corruption Bureau to investigate the irregularities and corrupt practices in the functioning of the Delhi Building and Other Construction Worker Welfare Board and in collection of cess.

(f) Direct the Respondents to refrain from adopting any coercive action against the Petitioner pending disposal of the present Petition;

(g) Grant such other and/or further relief(s), including costs of the present proceedings, as may be deemed fit, expedient and /or appropriate by this Hon'ble Court in the facts and the circumstances of this case."

3. Upon perusal of prayer (a), it is manifest that the petitioner is not aware of either the records and/or the manner in which funds have been collected or disbursed by the Building and Other Construction Workers' Welfare Board. During the course of hearing, learned counsel for the petitioner states that as petitioner's RTI application has been rejected, the petitioner has filed an appeal. This Court is of the view that the petitioner having taken recourse to the appellate remedies under the Right to Information Act, cannot pray in the present petition to direct the respondents to furnish the details of organizations to whom they have given funds and/or the manner in which the respondent has distributed its

funds.

4. Asked to elaborate upon prayer (b), learned counsel for the petitioner states that the petitioner's request for funds has been arbitrarily rejected by the respondent - Building and Other Construction Workers' Welfare Board. He prays that the respondent - Building and Other Construction Workers' Welfare Board be directed to release funds to the petitioner. However, the said request is not within the ambit of prayer (b) of the writ petition.

5. In fact, the petitioner by way of prayers (b) and (c) in essence, seeks a direction to the effect that the respondents must carry out their obligations and duties in accordance with the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996. This Court is of the view that no declaration to the said effect is required as all statutory authorities are mandated under law to abide by the statute.

6. By virtue of prayers (d) and (e), the petitioner seeks an enquiry against the respondents through CBI or Anti Corruption Bureau. However, this Court finds that there is no allegation of misconduct against any particular individual with sufficient particulars. The petitioner, during the course of hearing, has referred to the Board minutes to contend that cess has not been collected for the last twenty years by various municipalities. This allegation, in our view, is too vague and too general to call for an enquiry by the Anti Corruption Bureau or CBI. This Court is of the view that if such an enquiry is granted, it would lead to a fishing and roving enquiry.

7. Further, the Supreme Court in the case of *State of West Bengal & Ors. Vs. Committee for Protection of Democratic Rights, West Bengal &*

Ors., (2010) 3 SCC 571 has held that CBI enquiry should be ordered rarely and in compelling cases. The present case does not fall in the aforesaid exceptional category.

8. No factual foundation has also been laid for the allegation that the respondents have taken and are taking coercive action against the petitioner. Consequently, no relief under prayer (f) is called for.

9. Keeping in view the aforesaid, the present writ petition along with pending applications are dismissed but with no order as to costs.

10. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.

MANMOHAN, J

NAVIN CHAWLA, J

JULY 26, 2021
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