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

+ **W.P.(C) 2713/2022**

IC NO. 73590M LT COL SIDDHARTH SINGH Petitioner

Through **Ms.Shruti Dixit, Advocate.**

versus

UNION OF INDIA AND ORS Respondent

Through **Mr.Manish Mohan, CGSC for UOI.**

% **Date of Decision: 11th February, 2022**

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE NAVIN CHAWLA

J U D G M E N T

MANMOHAN, J: (Oral)

C.M.No.7732/2022

Exemption allowed, subject to all just exceptions.

Accordingly, the application stands disposed of.

W.P.(C) No.2713/2022 & C.M.No.7731/2022

1. The petition has been heard by way of video conferencing.
2. By way of present petition, Petitioner seeks direction to restrain the Respondents from continuing with the disciplinary proceedings (Court of Inquiry) against the Petitioner and to declare that the proceedings in pursuance to the same are illegal and void and to set aside the convening order dated 13th July, 2021 issued by Respondent No.4 as well as for providing the Petitioner with all the documents on the basis of which the



Court of Inquiry is being conducted.

3. Learned counsel for the Petitioner states that the Petitioner is aggrieved by the refusal to extend the interim stay of the Court of Inquiry initiated by Respondent Nos. 1 to 5 vide order dated 08th December, 2021 passed in O.A. No.1897/2021 by the Armed Forces Tribunal, Principal Bench, New Delhi.

4. She further states that the Respondents could not have initiated any action against the Petitioner on the grounds mentioned in the complaint made by the Respondent No. 6, since persecution for the alleged offence of adultery has already been held to be unconstitutional by the Apex Court. She points out that Respondent No. 6 and her family have already filed various FIRs against the Petitioner and the Petitioner has filed a Divorce Petition under Section 13 of the Hindu Marriage Act, 1955 against Respondent No. 6 before the Family Court, Lucknow along with a petition for judicial custody of the minor daughter under Section 26 of the Hindu Marriage Act, 1955 both dated 16th July, 2019 wherein the Respondent No. 6 had chosen not to appear.

5. Learned counsel for the Petitioner states that the Tribunal vide order dated 10th September, 2021 was pleased to grant interim protection to the Petitioner and to keep the Court of Inquiry in abeyance as well as to direct the Respondents to file their counter affidavits. However, on a later date the Tribunal vacated the said stay on the ground that the complaints of the Respondent-wife contained allegations against the Petitioner pertaining to his conduct in uniform apart from adultery. She lastly states that the Tribunal has mechanically vacated the interim stay and the protection granted to the Petitioner without any cogent reasons.



6. This Court is of the view that the Tribunal has given cogent reasons for vacation of the interim stay. The relevant portion of the impugned order is reproduced hereinbelow:-

“4. That being so, at this stage, looking to the nature of the allegations made in the complaint and the fact that the respondents want to conduct a preliminary inquiry on the complaint to evaluate the conduct of the applicant viz. a viz. the allegations and the conduct in the backdrop of the values and moral standards and discipline to be maintained by an officer in uniform, we see no reason to continue with the interim protection granted on 10.09.2021. We permit the respondents to proceed with the Court of Inquiry.”

7. This Court is also in agreement with the view of the Tribunal that the Court of Inquiry is only a fact-finding inquiry to enable the Competent Authority to take a decision as to whether the regular trial for any offence or misconduct is called for in the present case.

8. In any event, the impugned interim order calls for no interference in the writ jurisdiction as the same does not suffers from error of jurisdiction or perversity or illegality. (See: *Hari Vishnu Kamath vs. Syed Ahmad Ishaque and Ors.*, (1995) 1 SCR 1104, *Surya Dev Rai vs. Ram Chander and Ors.*, (2003) 6 SCC 675, *Sameer Suresh Gupta Through PA Holder vs. Rahul Kumar Agarwal*, (2013) 9 SCC 374)

9. Accordingly, the present writ petition along with pending application is dismissed.

MANMOHAN, J

NAVIN CHAWLA, J

FEBRUARY 11, 2022/KA