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

+ **CRL.M.C. 2060/2024**

STATE (GOVT OF NCT) OF DELHI

.....Petitioner

Through: Mr. Manoj Pant, APP for the State
with Mr. Prakash Chander, Ms. Sudha
Mishra, Ms. Anita Sharma and Mr.
Atul Kumar Singh, Advocates with SI
Anuj Mor, P.S.: Rajouri Garden.

versus

JASPREET SINGH

.....Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

22.07.2024

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CRL.M.A. 21151/2024 (exemption)

Exemption granted, subject to just exceptions.

Let requisite compliances be made within 01 week.

The application stands disposed of.

CRL.M.A. 21150/2024

By way of the present application filed under section 482 of the Code of Criminal Procedure 1973, the petitioner/State seeks stay of the operation of order dated 22.04.2024 passed by the learned ASJ (FTC)-01, West, Tis Hazari Court, Delhi calling for a written explanation from the Dy. Secretary (Home), Prosecution Branch, GNCT of Delhi for non-compliance of an earlier order dated 18.03.2024.

2. Mr. Manoj Pant, learned APP appearing for the State submits, that *vide* order dated 13.03.2024 made in these proceedings, the operation



of order dated 20.02.2024 was stayed. However, *vide* order dated 18.03.2024, on a misconstruction of order dated 20.02.2024 passed by the court, the learned ASJ has interpreted that the stay applied only to the imposition of costs and the issuance of a show cause notice to Head Constable Nitish (reader to the office of Chief Prosecutor, West). The learned ASJ has thereafter proceeded to frame a host of questions and asked for written explanation relating to administrative matters from the Chief Prosecutor, West, Tis Hazari Court, Delhi; from the Dy. Secretary, Prosecution; and from DCP West, which the learned ASJ was not entitled to examine.

3. It is noticed that the issue at hand relates principally to the posting and transfer policy of Naib Courts and the administrative hierarchy in the Directorate of Prosecution and connected matters.
4. Issue notice.
5. The respondent herein is the accused in the matter in which the impugned orders have come to be passed. By the very nature of the grievance raised by the State, the accused has no role in this matter and accordingly the service of notice upon the respondent is dispensed with.
6. *Vide* order dated 18.03.2024 the learned ASJ has posed the following questions to the Chief Prosecutor West, Tis Hazari Court, Delhi and to Dy. Secretary, Prosecution and the DCP West :

Questions posed to the Chief Prosecutor, West, THC, Delhi are the following :

“1. Is there any Cadre Controlling Authority of Prosecution Department, GNCT, Delhi. Give details.



2. *If the above question is positive then how the Prosecution Department, GNCT, Delhi is an independent body as submitted by Chief Prosecutor, West, THC, Delhi ?*

3. *To furnish the transfer/posting orders of Naib Courts since September, 2023 to 03.01.2024.*

4. *To furnish transfer/posting policy of Naib Court Prosecution in the Prosecution Department, GNCT, Delhi.*

5. *To furnish list of Naib Courts Prosecution working in the West District in Sessions Courts along with name of the court.*

6. *What is the policy/criteria to depute Naib Courts, Prosecution in Sessions Court ?*

7. *How many Naib Courts, Prosecution are deputed in each Sessions Courts of West District ?*

8. *What is the minimum and maximum period of posting of Naib Court in Sessions Court ?*

9. *On what basis/reason transfer/posting order dated 04.01.2024 and 13.02.2024 were made ?*

10. *What is the reason of transfer/posting of ASI Sajjan Singh dated 04.01.2024 from the court of Sh. Satbir Singh Lamba, Ld. ASJ/West to the court of undersigned and what is the reason of transfer/posting of ASI Sajjan Singh dated 13.02.2024 from the court of undersigned to the court of Sh. Ankit Mehta, Ld. ASJ/West ?*

11. *What is the reason to frequently transfer of 4-5 Public Prosecutors from this court since September, 2023, despite knowing that this is Fast Track Court pertaining to old cases (more than 04 years old) without any reason. Further, what is the reason for attaching Addl PP of this court with another Sessions Court since September, 2023 despite knowing that this is Fast Track Court pertaining to old cases (more than 04 years old).*

12. *What is the transfer/posting policy of Public Prosecutors/Addl PP in the Prosecution Department, GNCT, Delhi ? Relevant documents of transfer/posting policy of Public Prosecutors be furnished.”*

Questions posed to the Dy. Secretary, Prosecution are the following :

“1. Who is the Cadre Controlling Authority of Prosecution Department, GNCT, Delhi ?



2. What is the Administrative hierarchy above Director, Prosecution ?

3. To whom Director, Prosecution report in the Administrative hierarchy ?

4. Is transfer/posting policy of the officials working in the Home Department, GNCT of Delhi is maintained by the GNCT, Delhi ?”

Questions posed to DCP West are the following :

“1. Is Prosecution Department and Police Department same and working under the same Govt ?

2. Under what arrangement/which policy the police officials are transferred in the Prosecution Department, GNCT, Delhi. Relevant documents be filed.

3. What is the minimum and maximum period of posting of police officials in the Prosecution Department ?

3. How many police officials have been transferred in the Prosecution Department from the West District at present ? Complete list be filed along with names and dates of transfer.

4. Are police officials/Naib Court Prosecution in the Prosecution Department, GNCT, Delhi are exempted to wear uniform while on duty ? Relevant circular/order be filed.

5. In case of non wearing of uniform, who has the power to take disciplinary action against the erring police officials ?

6. After transfer of police officials in the Prosecution Department who has the power to take disciplinary action against the erring police officials working in the Prosecution Department, GNCT, Delhi ?

7. Whether power to take disciplinary action against the police officials/Naib Court Prosecution working in the Prosecution Department, GNCT, Delhi has been delegated by Delhi Police to the Prosecution Department? If yes, relevant documents be filed.”

7. Upon considering the matter, it is evident that what prompted the learned ASJ to enter upon this controversy is the posting of only one solitary Naib Court (Prosecution) in his court, and the frequent transfer of prosecutors to and from his court, which it would appear



had caused disruptions in the learned ASJ's work, which was a designated fast-track court.

8. While the difficulty faced by the learned ASJ as a result of being understaffed and being faced with frequent transfers of prosecutors is understandable, clearly the questions posed by the learned ASJ as extracted above, are not within the domain of his adjudication. The questions posed relate to administrative matters, which are within the remit of the Directorate of Prosecution, which functions under the Government of NCT of Delhi.
9. Furthermore, it is noticed that despite the earlier order dated 20.02.2024 of the learned ASJ having been stayed by this court *vide* its order dated 13.03.2024 passed in the present proceedings, it appears that the learned ASJ has, purportedly on a misconstruction of the stay order, persisted in framing the questions and seeking explanations from various officials.
10. Thereafter, the learned ASJ has also threatened contempt action against the Reader to the Chief Prosecutor, West, though the learned ASJ must no-doubt have been aware that the powers of contempt vest in the High Court and that Sessions Courts can at best refer a matter for contempt to the High Court.
11. Be that as it may, Mr. Pant informs the court that, as of now, two Naib Courts (Prosecution) have been posted to the concerned court; and, in fact, the Presiding Officer of the court who had passed the aforesaid orders has since been assigned another court.
12. In view of the above, this court does not consider it appropriate to get further into the issues raised by the State.



13. Orders dated 20.02.2024, 18.03.2024 and 22.04.2024 passed by the learned ASJ are set-aside.
14. The petition is disposed-of.
15. Pending applications, if any, also stand disposed-of.
16. However, before closing the matter, learned Judicial Officers of the District Courts are advised not to enter upon domains which are not within their judicial remit. Administrative and operational difficulties faced by Judicial Officers may be taken-up on the administrative side of the judicial hierarchy and not through judicial orders.
17. The Registrar General of this court is directed to forward a copy of this order to the Principal District & Sessions Judges in Delhi, for onward dissemination to the courts under their jurisdictions.
18. The date of 13.09.2024 given earlier in the present case, stands cancelled.

ANUP JAIRAM BHAMBHANI, J

JULY 22, 2024/ak