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

\+ W.P.(C) 7966/2024 & C.M.Nos.32812-32814/2024

RAKESH GUPTA ..... Petitioner

Through: Mr.Sachin Mittal with Ms.Bhawna Nanda and Ms.Khushboo Sharma, Advocates.

versus

UNION OF INDIA & ORS. ..... Respondents

Through: Mr.Jagdish Chandra with Mr.Prakhar Srivastav, Advocates for UOI.
Mr.Rana Mukherjee, Sr.Advocate with Mr.Deepak Nag, Ms.Surabhi Guleria and Ms.Apurva Upmanyu, Advocates for R-3.
Mr.Anupam S.Sharma, SPP with Mr.Prakarsh Airen, Ms.Harpreet Kalsi, Mr.Abhishek Batra, Mr.Ripudaman Sharma, Mr.Vashisht Rao, Mr.Syamantak Modgill and Mr.Ayush Kumar, Advocates for CBI.

% Date of Decision: 29th May, 2024

CORAM:
HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

JUDGMENT

MANMOHAN, ACJ : (ORAL)

1. Present writ petition has been filed seeking issuance of directions to the Respondent Nos.1, 2, 4, 5 and 6 to take action on the complaints dated 08th October, 2022, 16th October, 2022, 18th October, 2022 and 31st October,

2022 addressed by the Petitioner and to prosecute the officials of Respondent No.3 for indulging in serious offences of corruption and maladministration.

2. Learned counsel for the Petitioner states that on account of unprecedented increase in the sales of Respondent No.3 during the demonetization period, a Special Audit of the sales of Respondent No.3 was directed to be conducted by the Respondent No.2. He states that the Special Audit Report disclosed commission of serious offences of corruption and maladministration by the officials of Respondent No.3. He states that malpractices observed included laundering of unaccounted specified bank notes (SBN) (i.e bank notes carrying the denomination of Rs.500 and Rs.1000) by the officials of Respondent No.3; abuse of official position in an attempt to sabotage the demonetization policy of the Government of India and sale of goods to individual customers without obtaining their required identity proofs among others, which required in-depth inquiry. He states that vide Office Memorandum (OM) dated 17th August, 2017, the Respondent No.2 forwarded a copy of this Special Audit Report to the Respondent No.3 specifying the serious irregularities in sales, in cash, in retail stores after demonetization and directed Respondent No.3 to offer comments on each observation of the Special Auditor and give a report regarding the action taken against each recommendation within a period of thirty days of receipt of the OM. He states that despite passage of more than six years from the issuance of this OM, no action has been taken against the Respondent No.3 for violation of terms and conditions of the Gazette Notifications issued by the Government.

3. He states that the Petitioner had filed a W.P.(C) No.11336/2021 directing DOPT and the Chief Welfare Officer to take action on the Special Audit Report in terms of Section 77(6) of the Multi-State Cooperative Societies Act, 2002, in a time bound manner. He further states that vide order dated 04th September, 2023, the said petition was dismissed as withdrawn by the Petitioner since the Petitioner's complaint was pending consideration in the office of CBI-Respondent No. 6.

4. Learned senior counsel appearing for Respondent No.3- Kendriya Bhandar states that the present writ petition has been filed without making any specific allegation against any particular official of Kendriya Bhandar. He further states, on instructions, that the Income Tax Department has accepted the income-tax returns of Kendriya Bhandar for the relevant assessment year(s) without issuing any notice and without seeking any explanation. He also states that the audit objections along with the response of Kendriya Bhandar had been placed before the Chief Vigilance Officer (in short 'CVO') of Kendriya Bhandar, who in turn, had constituted a Committee to examine the said objections, on the request of CBI. A copy of the report of the Committee appointed by the CVO of Kendriya Bhandar dated 29th August, 2023 has been handed over today in Court. The same is taken on record. He states that the Committee appointed by the CVO of Kendriya Bhandar in the report dated 29th August, 2023 has concluded that there was no *malafide* intent or ulterior motive on the part of Store Incharges/employees/officers of Kendriya Bhandar. The conclusion of the said Committee is reproduced hereinbelow:-

> ***"III. CONCLUSION***
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> *Considering the observations made above, the Committee is of the view that the Store Incharges of Kendriya Bhandar appears to have handled/managed the unprecedented situation to the best of their abilities and capabilities with*

the available manpower and resources and tried to adhere to the instruction of the Govt. received from time to time in the best interest of the organisation. The Committee has observed that Kendriya Bhandar did not deviate and depart from the existing norms and procedure of accounting being observed since its inception. The Committee further observed that delay in depositing the cash in banks on some of the occasions in respect of few stores occurred inadvertently due to the fact that there was no separate security wing in Kendriya Bhandar for this specific purpose and there was limited availability of vehicles and staff to collect sale money from the stores. Further banks were also not accepting the cash due to heavy rush in the banks and the centrally collected cash in the Head Office of Kendriya Bhandar could not be deposited in the banks on daily basis and therefore took some extra time. No malafide on the part of anyone could be noticed on this aspect. The irregularities pointed out in the Special Audit report are belated one and may be taken care of for future purposes only. However, whatever deviations in accounting norms have been observed by the Special Audit appears to be due to the fact that such a sudden unprecedented situation had never occurred in the past in Kendriya Bhandar which was an altogether new experience for the employees of Kendriya Bhandar who despite several odds handled/managed the same to the best of their abilities. However, no malafide intentions or the ulterior motives on the part of Store Incharges/employees/officers of Kendriya Bhandar appears to have been observed on the basis of available evidences".

5. Learned counsel for the CBI states that the CBI had made its stand clear to the CVO of Kendriya Bhandar that if any criminality is found in the matter, it may revert back to the CBI for investigation. He states that since the CVO of Kendriya Bhandar has not found any criminality, no request for investigation has been received by the CBI.

6. Keeping in view the aforesaid conclusion of the Committee appointed by the CVO of Kendriya Bhandar as well as the fact that the Income Tax Department, who is stated to have accepted the income-tax returns of the Kendriya Bhandar for the relevant assessment year(s), this Court finds no ground to entertain the present public interest petition. Accordingly, the same is dismissed along with the applications.

7. At this stage, learned counsel for the Petitioner states that the Petitioner be given liberty to challenge the report of the Committee of the

officers appointed by the CVO of Kendriya Bhandar. However, this Court is of the view that no such liberty is required from this Court to challenge the same. Accordingly, the said request is declined.

ACTING CHIEF JUSTICE

MANMEET PRITAM SINGH ARORA, J

MAY 29, 2024
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