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

+ **W.P.(C) 11388/2024 & CM APPL. 47244/2024**

TEJ BAHADUR

.....Petitioner

Through: Mr. Ashok Kumar and Ms. Reena
Bharti, Advocates.

versus

GOVT. OF N.C.T. OF DELHI & ORS.

.....Respondents

Through: Mr. Karn Bhardwaj, ASC with Mr.
Shubham Singh, Mr. Rajat Gaba and
Mr. Saurabh Dahiya, Advocates.
Mr. Amit Tiwari, CGSC with Mr.
Shaurya Rai, GP and Mr. Priyanshu,
Advocate for R-2 to 6.
SI Manish Phogat, PS Mehrauli.
Mr. Ravinder Agarwal and Mr. Lekh
Singh, Advocates for R-7.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

16.08.2024

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1. This is the second instance wherein the Petitioner seeks judicial intervention on an identical cause, alleging abuse of the legal process by the Delhi police. Thus, it is essential to delve into the specifics that have led to the re-initiation of these proceedings.
2. On 15th April 2024, the Petitioner submitted a formal complaint *via* email to the Principal Secretary, Home Department, Government of NCT of Delhi and the Special Commissioner of Police, arrayed as Respondents No. 1 and 2. This complaint called for disciplinary action against Inspector P.C.



Yadav, Head Constable Tara Chand, and Sub-Inspector Vasant Kumar—arrayed as Respondents No. 3 to 5. The complaint alleges that the Delhi Police cannot act on anonymous complaints received from alleged fictitious name and email address.

3. On 22nd July 2024, the Petitioner was informed that his complaint had been assigned to Respondent No. 5 for further inquiry. Thereafter, the Petitioner received a message on 12th August, 2024, from one Mr. Satvinder Singh, Inspector (Vigilance), South District Officer, with respect to the enquiry into the Petitioner's complaint dated 15th April 2024. The Petitioner alleges that since Mr. Satvinder Singh is also posted at the same rank of Inspector as Respondent No.3, against who he has filed the complaint, Mr. Singh cannot inquire into the complaint.

4. Before delving into the Petitioner's allegations, we must take note of a significant background leading to the present case. The Petitioner had earlier filed a writ petition W.P.(Crl.) 2282/2024 under Article 226 of the Constitution of India, seeking the following reliefs:

- “(i) *Issue a Writ of Mandamus or an appropriate Writ, Order or direction in the nature thereof to the respondent Nos.1 and 2 for withdrawal of the Grievance bearing Complaint No.50000047842405179 Dated 16.04.2024 sent to the respondent Nos.1 and 2 from the respondent No.5, who is one of the erring officers and to entrust/forward the same to some other officer in pursuant to the standard operating procedure contained in the Office Memorandum No.S-15/11/2018-PG(States)(e-Office No.5685) dated 05-04-2018 issued by the Department of Administrative Reforms and Public Grievances, Ministry of Personnel, Public Grievances and Pensions, Government of India, which is also applicable on Delhi Police;*
- (ii) *Issue issuing a Writ of Mandamus or an appropriate Writ, Order or Direction in the nature thereof to the respondent Nos.1 and 2 for initiating disciplinary action against the respondent Nos.3, 4 and 5*



for conducting enquiry into an anonymous complaint lodged from the fake name and E-mail address in utter violation of the Circular No.9817-9928/CVC/HA/VIP/Vig. Dated 27.10.2021 issued by the Commissioner of Police, Delhi in pursuant to the instructions contained in the Circular No.12/9/20 dated 24.09.2020 and Circular No.07/11/2014 dated 25.11.2014 issued by the Central Vigilance Commission.

- (iii) *Issue issuing a Writ of Mandamus or an appropriate Writ, Order or Direction in the nature thereof to the respondent Nos.1 and 2 for enquiring into the criminal conspiracy and other criminal acts between the so called complainant and respondent Nos.3, 4 & 5;”*

5. The afore-said writ was heard and dismissed as withdrawn, as revealed from the order dated 31st July, 2024:

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

+ W.P.(CRL) 2282/2024

TEJ BAHADUR

.....Petitioner

Through: **Mr. Ashok Kumar & Ms. Reena
Bharti, Advocates.**

versus

THE STATE (N.C.T. OF DELHI) & ORS.

.....Respondents

Through: **Ms. Rupali Bandhopadhyaya, ASC-
CRL for the State with Mr. Abhijeet
Kumar & Mr. Sagar Mehlawat,
Advocates. SI Naveen Kumar (P.S.
Mehrauli) & SI Vasant Kumar (P.S.
Vigilance/SD).**

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **31.07.2024**

1. *The learned counsel for the petitioner, at the outset, seeks liberty to withdraw the present petition.*
2. *The petition is dismissed as withdrawn.”*

6. The Petitioner has once again filed a writ on the same cause of action, by remoulding the reliefs to maintain the petition. This time he seeks the following reliefs:

“(i) Issue a Writ of Mandamus or any other appropriate nature directing



the Respondent Nos.1, 2 and 6 to appoint a competent enquiry officer to enquire and dispose of the grievance bearing Complaint dated 15.04.2024 (Annexure P-5) registered as Grievance No.50000047842405179 dated 16.04.2024 by passing a speaking order after granting an opportunity of hearing to the petitioner in a time bound period;

(ii) Issue a Writ of Mandamus or any other appropriate nature directing the Enquiry Officer to identify the so-called complainant, who made false and frivolous complaint (Annexure P-1) with the malafide intention to get harassed the petitioner at the hands of the Respondent Nos.3, 4 and 5;

(iii) Issue a Writ of Mandamus or any other appropriate nature directing the Respondent No.6 to amend/rectify the Circular No.9817-9928/CVC/HA/VIP/VIG. dated 27.10.2021 (Annexure P-2) issued by the Respondent No.6 in accordance with the Circular No.12/9/20 dated 24.09.2020 and Circular No.07/11/2014 dated 25.11.2014 (Annexure P-3) issued by the Respondent No.7 and also in accordance with the office Memorandum bearing F.No.104/76/2022-AVD.IA dated 28.09.2022 issued by the Department of Personnel & Training, Ministry of Personnel, Public Grievances and Pensions, Govt. of India (Annexure P-4).

(iv) Pass any other or further order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case, in the interest of justice."

7. A comparison of the prayer clauses of the two petition reveals that Petitioner's cause of action remains the same, although the reliefs have been rephrased, in an attempt to maintain the Petition. Petitioner is essentially aggrieved by the Police enquiry or investigation into the complaint dated 1st October, 2023, which he alleges is false and frivolous and was filed with the *malafide* intention to get the Petitioner harassed at the hands of Respondent Nos.3, 4 and 5 and for proper redressal of his grievance dated 16th April, 2024.¹ Thus, the cause of action in both the Petitions is the same.

8. It must be observed that it is a usual practice that Counsel opt to withdraw a petition to circumvent potential adverse rulings when they are

¹ See: Para 8-13 of the Writ Petition bearing no. W.P.(CrI)-2282/2024



unable to persuade the court. Significantly, the earlier petition was dismissed without granting any liberty to the Petitioner to re-file on the same grounds, as confirmed by the absence of such request or Court's observations in the order extracted above. Despite this, the Petitioner has filed the present petition, reiterating the same cause of action and seeking similar reliefs. When questioned by the Court regarding the maintainability of the filing of the present petition in light of the earlier withdrawal, counsel for the Petitioner contended that the reliefs sought now are civil in nature, which purportedly could not be addressed in the previously filed criminal writ petition. This rationale finds no support in the order dated 31st July, 2024. The Court did not record any acknowledgment of such a distinction. Furthermore, the attempt to re-file the petition under a different classification after its unconditional withdrawal represents a misuse of the judicial process. The Petitioner's approach, having previously withdrawn the petition without securing any leave to re-file, is to circumvent procedural safeguards and court directions, thereby constituting an abuse of the legal process. It is thus clear that having unconditionally withdrawn the earlier petition, the Petitioner is barred from re-filing on the same grounds unless explicitly permitted by subsequent legal proceedings or court order.

9. It must also be noted that the Police, as per Annexure-P1, enclosed with the petition, undertook action against Petitioner, pursuant to receipt of a complaint against him from one, Ms. Pooja Arora having e-mail address, arorapuja1991@gmail.com. Petitioner's contention that such an enquiry on the basis of anonymous/ pseudonymous complaints is in violation of



circulars issued by Central Vigilance Commissions,² is misconceived. The guidelines of CVC for handling anonymous/ pseudonymous complaints, on which the Petitioner places reliance, pertains to action against any police personnel/ official. In the instant case, the complaint was specifically against Petitioner which the Delhi police was bound to examine. Thus, in the opinion of the Court, circular relied upon by Petitioner is not applicable. In any event, Petitioner's complaint has been registered as Complaint No. 50000047842405179 as intimated to him and therefore no further directions are necessary to be issued.

10. With the above directions, the present petition is dismissed, along with pending application.

SANJEEV NARULA, J

AUGUST 16, 2024
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² Annexure P-2