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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 7039/2024**
MOHIT & ORS.Petitioners

Through: Mr. Nikhil Rohatgi and Mr. Shashank
Khurana, Advs.

versus

STATE OF NCT OF DELHI & ORS.Respondents

Through: Mr. Manoj Pant, APP for the State/R-1
& 4 with Insp. Pradeep, Cyber Cell,
Crime Branch.
Mr. Ripu Daman Bhardwaj, CGSC
with Mr. Abhinav Bhardwaj,
Advocate for R-2 and 3/UOI

CORAM:

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

ORDER

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06.09.2024

CRL.M.A. 26892/2024

Exemption allowed, subject to just exceptions.

Application stands disposed of.

CRL.M.C. 7039/2024 AND CRL.M.A. 26891/2024

1. Petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS') has been preferred on behalf of petitioners with following prayers:

“(a) Quashing of FIR No. 103 of 2022 dated 09.06.2022 under Sections 419/420/120-B IPC and 66-D of IT Act registered at Police Station (Crime Branch); and



(b) Quashing of all the Chargesheets filed pursuance to FIR No. 103 of 2022 dated 09.06.2022 in case no. 4848/2023 titled as State Vs Nasib and Ors pending before Ld. Chief Metropolitan Magistrate, New Delhi District, Patiala House Courts at Delhi; and

(c) Quashing of the Proceedings of the case no. 4848/2023 titled as State Vs Nasib and Ors pending before Ld. Chief Metropolitan Magistrate, New Delhi District, Patiala House Courts at Delhi and all the legal proceeding emanating therefrom; and”

2. Issue notice. Learned APP for the State/respondent no. 1 and 4 and learned CGSC for respondent no. 2 and 3 appear on advance notice and accept notice.

3. In brief, examination process was initiated by Staff Selection Commission (‘SSC’) for recruitment for the post of Constables (Executive), Male and Female, in Delhi Police. Computer based examination was conducted on PAN India basis and testing centers/labs were engaged. The final result was declared on 15.12.2021. However, the result of 625 candidates was withheld for further scrutiny by SSC, against which some of the candidates approached Central Administrative Tribunal (‘CAT’). Thereafter, a three-member committee was constituted by SSC to examine the CCTV footage and log trails of 625 candidates suspected of having used unfair means in aforesaid examination. Accordingly, FIR No. 0103/2022 under Sections 419/420/120B IPC and 66D Information Technology (Amendments) Act, 2008, P.S. Crime Branch, was registered on 09.06.2022.

4. It is further the case of prosecution that chargesheet was initially filed against 63 candidates followed by first supplementary chargesheet against 87 candidates, second supplementary chargesheet against 117 candidates, and third supplementary chargesheet against 103 candidates. The case against



suspected candidates primarily relies upon the evidence of sharing of screens by the concerned candidates with some other computer in conspiracy with lab owners, at the concerned testing centre. CCTV footage alongwith log reports of the relevant computer systems, apart from marking patterns and statements under Sections 161/164 Cr.P.C. of witnesses recorded during investigation are also relied.

5. Learned counsel for petitioners submits that there is no concrete evidence against the petitioners herein and charge-sheets have only been filed under assumption that the petitioners had adopted unfair means during the process of examination. He further points out that FSL result is yet to be received on record and there is no progress in trial. He emphasizes that log reports which have been relied upon by the prosecution did not corroborate the sharing of screens with any other computer.

6. On the other hand, Learned APP for the State opposes the petition and points out that W.P. (CRL) 632/2023 preferred by some of the candidates for quashing of the aforesaid FIR was dismissed on 03.03.2023. He also informs that FSL result is yet to be received by the prosecution.

7. Considering the facts and circumstances, this Court is of the considered opinion that matter does not call for interference at this stage, since FSL report is still awaited. Petitioners shall be at liberty to file the petition afresh in case the FSL report corroborates their stand.

Investigating Agency is accordingly directed to take necessary steps for forwarding necessary communication to the Director, FSL for expediting the FSL report in a time bound manner, with an outer limit of 60 days from the date of passing of this order.

Petition is accordingly disposed of. Pending applications, if any, also



stand disposed of.

Nothing stated herein shall tantamount to expression of opinion on the merits of the case.

ANOOP KUMAR MENDIRATTA, J.

SEPTEMBER 6, 2024

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