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

+ **W.P.(C) 13155/2024 & CM APPL. 54963/2024**

VIJAY FARIDABAD CAFIRST GUPTA

.....Petitioner

Through: Mr. Abhijat, Mr. Rohit Gandhi,
Mr. Himanshu Gupta, Mr. Hargun
Singh Kalra, Mr. Varun Trivedi,
Advocates.

versus

INSTITUTE OF CHARTERED

ACCOUNTANTS OF INDIA & ORS.

.....Respondents

Through: Ms. Pooja M. Saigal and Mr. Jatin
Dua, Advocates.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER
07.11.2024

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1. This writ petition has been filed, under Article 226 of the Constitution, by a Member of the respondent No. 2-Institute of Chartered Accountants of India [“ICAI”] who wishes to contest elections for the Twenty Sixth Council of ICAI from Constituency No. V-Northern India Regional Constituency.

2. The petitioner’s name, as it appeared in the membership register of the ICAI until 30.04.2024, was “*Vijay Kumar Gupta*”. However, upon finding that another member with the same name also intends to stand in the same election, the petitioner has ostensibly changed his name to “*Vijay Faridabad Cafirst Gupta*”. A newspaper advertisement declaring



his change of name w.e.f. 01.04.2024 was published in the Indian Express newspaper on 01.05.2024. On the same day, he also changed his name on the online portal of ICAI. The petitioner, however, realised that in the draft voters' list published by ICAI, his name continues to be shown as "Gupta Vijay Kumar". He addressed several e-mails and a legal notice dated 09.09.2024 to the ICAI, with regard to the change of his name. As his grievance has not been addressed, he filed the instant writ petition for the following reliefs:

- "a) Pass a writ or any other order or direction in the nature of mandamus or any other writ thereby directing to the Respondents to rectify the Voter List and include the changed name of the Petitioner in its Final Voter list as 'Vijay Faridabad CAfirst Gupta'.*
- b) Pass a writ or any other order or direction in the nature of mandamus or any other writ thereby directing to the Respondents to permit the Petitioner to submit his nomination with his changed name Vijay Faridabad CAfirst Gupta and contest the election under the said name.*
- c) Pass any further orders as this Hon'ble Court deems fit in the present facts and circumstances."*

3. By an order dated 23.09.2024, the Court recorded a *prima facie* finding that, unless the parties were fully heard, the name of the petitioner cannot be allowed to change. However, the parties were directed to take instructions as to the manner in which this anomaly could be resolved. The petitioner was granted liberty to submit his nomination form in his earlier name, i.e., Vijay Kumar Gupta. He has done so.

4. Although learned counsel for the parties state that they have made an attempt to find a mutually acceptable resolution, this has unfortunately been unsuccessful.

5. Learned counsel for the parties were heard today for over one hour.



Ms. Pooja M. Saigal, learned counsel for ICAI, submits on instructions, that if the petitioner's name had been changed in ICAI's record prior to 01.04.2024, he would have been entitled to stand for elections in his new name and that, subject to any action taken by ICAI with respect to his proposed name, he will be so entitled in future elections.

6. In this view of the matter, the only question which required consideration at this stage, was as to the manner in which the petitioner's name should be reflected in the ballot papers for the elections scheduled to be held in December, 2024. For this purpose, and bearing in mind the petitioner's prayers in CM APPL. 59946/2024, I dictated an order directing ICAI to incorporate the petitioner's name as "*Gupta Vijay Kumar (Faridabad)*" for the purposes of the said election, so that he would be easily distinguished from the other candidate of the same name. It bears repetition that this is one of the alternative prayers in an application filed by the petitioner himself.

7. However, after the order was dictated, and a period of one and a half hours had been spent on this petition, Mr. Abhijat, learned counsel for the petitioner, submitted on instructions from the petitioner, who is present in Court, that an order of this nature would prejudice the petitioner as his ballot number would change. He therefore sought permission to withdraw the writ petition.

8. In this process, valuable judicial time has been spent on account of this misadventure on the part of the petitioner. The petitioner has filed the writ petition in September 2024, and has thereafter filed applications for early hearing, ad-interim directions, and also carried the matter to the Division Bench in an appeal.



9. While permitting withdrawal of the writ petition, I am therefore of the view that the petitioner must be burdened with exemplary costs for the unnecessary expenditure of judicial time on this case.

10. The petition, alongwith pending applications, is dismissed as withdrawn. The petitioner will pay the costs of ₹1,00,000/- with the Delhi High Court Bar Association Library Fund [A/c No. 15530100046108, Bank Name: UCO Bank, Branch: Delhi High Court, IFSC – UCBA0001553] within a period of two weeks from today.

PRATEEK JALAN, J

NOVEMBER 7, 2024
'SV/Bhupi'