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

+ **CM(M) 3859/2024**

SHRI VED PRAKASH

.....Petitioner

Through: Mr. Dhruv Kumra and Mr. Umang
Varshney, Advs.
Petitioner in person.

versus

**NATIONAL COUNCIL OF EDUCATION RESEARCH AND
TRAINING & ORS.**

.....Respondents

Through: Mr. Ashok Kumar, Advocate for
Respondent No.01/NCERT.
R-7 in person.

CORAM:

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

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20.11.2024

CM APPL. 67422/2024 (exemption)

Allowed, subject to all just exceptions.

The application stands disposed of.

CM(M) 3859/2024 & CM APPL. 67421/2024 (STAY)

1. This is a petition under Article 226 of the Constitution of India for setting aside the order dated 03.08.2024 passed by the court of learned District Judge Saket Court Complex, New Delhi in CS DJ 9090/2012 title 'National Council of Education Research and Training Vs. NCERT Stenographer Welfare Association and Ors.
2. Respondent no. 1 filed a suit for rendition of accounts, permanent



injunction and other consequential reliefs before the court.

3. Petitioner is one of the defendants in the said suit. The record reveals that in August, 2013, respondent no.1 filed an application for direction to ICICI Bank to provide documents relating to account no. 0071014731.

4. The suit at that point of time was pending in the High Court.

5. On 29.11.2013 the High Court disposed of the application on the submission from the ICICI Bank that it will look into the matter and file the certified copies of the documents which are in their possession on affidavit of a competent officer within 12 weeks.

6. It appears that such documents were not supplied.

7. Respondents' counsel made submissions before the court on 22.07.2014 and 05.02.2015 about the documents having not been provided by the ICICI Bank.

8. Upon such submissions, the ICICI Bank requested for more time for making the necessary compliance. In the year 2016, the suit was transferred to the District Courts.

9. In the interregnum, ICICI Bank was dropped from the array of parties by the High Court vide order dated 17.04.2013.

10. On 01.08.2023, the petitioner filed an application under Section 165 of Indian Evidence Act seeking permission to summon the ICICI Bank with records pertaining to Account No. 00710104731.

11. The application of petitioner was dismissed by the trial court vide order dated 03.08.2024. It is this order which has been challenged in the present petition.

12. Learned counsel submits that under Section 165 of the Evidence Act, the Court has wide powers to elicit all necessary material for the purpose of



proper adjudication of the case. It is argued that it is respondent No. 1 who initially filed the application before the court for production of those documents, upon which, directions were issued by the court and now, respondent cannot backtrack from his previous request made before the court. It is submitted that the documents, if produced, would assist the court in returning a proper finding on the merits of the case.

13. The petition has been vehemently opposed by the learned counsel appearing for respondent No. 1 arguing that petitioner did not file the written statement and his right to file the written statement was closed by the court on 04.01.2013. He has further submitted that ICICI Bank has already furnished the necessary information which is sufficient for the purpose of the case and only after filing of such documents did the court permit the respondent No. 1 to delete the name of ICICI Bank from the array of parties.

14. Undisputedly, it is respondent No. 1 who had asked for the production of the account details which are now being sought by the petitioner herein. It is also an undisputed fact that the documents were not provided and this fact was brought to the knowledge of the court at least two times.

15. The submission of the learned counsel of respondent is that the account details were required for the purpose of ascertaining the disbursal of amount by the petitioner to the Stenographers/Assistants.

16. The onus to prove its case is obviously on the respondents/plaintiff. According to the respondents, the statement of bank account has since been filed by ICICI bank which shall duly prove the details of disbursal of the amount, if any, granted to the petitioner association by National Council of Education Research and Training.

17. Since as per the respondent, the requisite documents sufficient for



proving the case of the respondents are already on record, no further documents are required in respect of account from ICICI Bank.

18. It is also useful to note that the evidence of the parties has already been completed and the case is at the state of final arguments. The suit was filed in the year 2012 and the application from the side of the respondent has come at the fag end of the case. The application is therefore highly belated and granting permission as sought would further delay the case.

19. In view of the totality of facts and circumstances, court is not inclined to interfere with the orders passed by the learned trial court. Court therefore finds no merit in the petition.

20. Petition is dismissed.

RAVINDER DUDEJA, J

NOVEMBER 20, 2024/sky