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

+ **W.P.(C) 16468/2024**

VIKRAM

.....Petitioner

Through: Mr. Saurabh Sharma, Advocate.

versus

DISTRICT AND SESSIONS JUDGE & ANR.Respondents

Through: Ms. Avnish Ahlawat, Standing Counsel with Mr. Nitesh Kumar Singh, Ms. Laavanya Kaushik, Ms. Aliza Alam and Mr. Mohnish Sehrawat, Advocates for Respondents.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER
28.11.2024

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CM APPL. 69467/2024

1. Exemption allowed, subject to all just exceptions.
2. Application stands disposed of.

W.P.(C) 16468/2024 and CM APPL.69466/2024

3. This writ petition has been filed on behalf of the Petitioner under Articles 226 and 227 of the Constitution of India seeking quashing of impugned letter dated 02.09.2024 issued by office of Respondent No.1 whereby representation of the Petitioner was rejected. Challenge is also laid to impugned order dated 06.12.2022 whereby Petitioner's candidature for appointment to the post of Chowkidar was cancelled. A writ of mandamus is sought for appointment of the Petitioner to the said post with all



consequential benefits.

4. Facts to the extent relevant are that Petitioner applied online for the posts of Peon/Orderly/Dak Peon, Chowkidar and Sweeper/Safai Karamchari in the year 2022 in the office of District and Sessions Judge (Headquarters), Tis Hazari Courts, Delhi, giving his first preference for the post of Chowkidar; second preference for the post of Peon/Dak Peon; third preference for the post of Peon/Orderly/Dak Peon; and fourth preference for Sweeper/Safai Karamchari. On being selected, Petitioner was offered appointment to the post of Chowkidar on 09.03.2022 in Pay Band Rs.5200-20200 with Grade Pay of Rs.2000 (pre-revised)/Level-3 under 7th CPC Pay Matrix.

5. It is stated that Petitioner accepted the offer of appointment vide letter dated 18.04.2022 and submitted all requisite documents, such as Attestation Forms, undertakings, declarations and affidavits as required, for verification. On the request of Respondent No.1, Office of the District Magistrate submitted the Police Verification Report on 07.09.2022 intimating that an FIR No.136/2013 dated 18.02.2013 under Section 302 IPC registered at PS: City Rohtak, FIR No.375/2017 dated 21.06.2017 under Sections 148/149/323/506 IPC registered at PS: City Sonipat; and FIR No.164/2021 dated 02.06.2021 under Sections 379/411 IPC registered at PS: Gannaur were pending adjudication involving the Petitioner. Based on the antecedent verification report, Respondent No.1 cancelled the candidature of the Petitioner on 06.12.2022. Petitioner thereafter preferred an application under Right to Information Act, 2005 on 23.12.2023 seeking reasons for cancellation of his candidature and learnt that his candidature was cancelled due to the Police verification report sent by District Magistrate, Sonipat.



6. It is averred that Petitioner preferred a representation on 31.01.2024 for reconsidering his candidature on several grounds, which was rejected on 31.01.2024. Petitioner sought some further information under RTI Act on 02.07.2024 as also copy of the Minutes of Meeting dated 15.10.2023 of the Committee, which was made available to him and he again represented on 20.06.2024 but this representation was also rejected vide order dated 03.07.2024. Last representation of the Petitioner dated 02.09.2024 for a personal hearing also met the same fate.

7. Learned counsel for the Petitioner submits that the candidature of the Petitioner has been cancelled on a false and faulty Police Verification Report submitted by District Magistrate, Sonipat as Petitioner was never involved or accused in FIR No. 136/2013 which was registered against a person named Vikram who incidently is a resident of the same Village as the Petitioner and bears the same name. Insofar as FIR No. 375/2017 is concerned, Petitioner was only 23 years of age when he was implicated along with other family members in a family dispute although he had no role in the dispute and accordingly, he was acquitted by learned CJM, Sonipat, Haryana vide judgment dated 01.11.2018.

8. It is further urged that Petitioner is a taxi driver and on one unfortunate day when he was taking passengers from Delhi who were carrying some stolen goods, he was wrongly apprehended with the passengers being a driver. Two FIRs being FIR No. 259/2021 and 164/2021 were registered respectively at Delhi and Haryana for the same incident. Vide judgment dated 31.07.2024, learned SDJM, Gannaur, Haryana acquitted the Petitioner in criminal case No. 278/2021 in respect of FIR 164/2021 while the FIR in Delhi is pending but in all probability Petitioner



will be acquitted as it is the same incident. It is submitted that all these facts were brought to the notice of Respondent No. 1 but no heed was paid and by the impugned order without any reason, Petitioner's candidature has been cancelled.

9. It is further urged that Petitioner is a young boy with bright career prospects and the cancellation has completely ruined his life and future career. Supreme Court in ***Mohammed Imran v. State of Maharashtra and Others, 2018 SCC OnLine SC 1943***, has held that candidature of a candidate and its rejection should not be coloured by a myopic vision blurred by spectacle of moral turpitude and must show application of mind. In ***Avtar Singh v. Union of India and Others, (2018) 1 SCC 268***, the Supreme Court took cognisance of the ground realities and in ***Commissioner of Police and Others v. Sandeep Kumar, (2011) 4 SCC 644***, it was held that at a young age people often commit indiscretions which can often be condoned as after all they are not expected to behave in a matured manner as older people. Hence, the approach of the Court should be to condone minor indiscretions of young people rather than to brand them as criminals for the rest of their lives.

10. Issue notice.

11. Ms. Ahlawat accepts notice on behalf of the Respondents.

12. As per the case set up by the Petitioner in the writ petition his candidature for appointment to the post of Chowkidar has been cancelled on account of the FIRs registered against him, which according to him, is illegal as the decision overlooks the fact that in proceedings emanating out of FIR No.375/2017 Petitioner has been acquitted vide judgment dated 01.11.2018 and likewise, with respect to FIR No.164/2021 also he stands



acquitted. FIR No.259/2021 is stated to be with respect to the same incident which is subject matter of FIR No.164/2021 and it is averred that because the incident is the same, there is every likelihood that the Petitioner will be acquitted. Insofar as FIR 136/2013 is concerned, Petitioner states that this FIR has been registered on account of a mistake as his name and village is common with another person namely Vikram.

13. Petitioner urges that he is a young boy and cancellation of his candidature at this age on account of false FIRs registered against him will ruin his life and career. It is also urged that all details with respect to FIRs in question were brought to the notice of the Competent Authority by representation dated 23.08.2024 but without looking into the same, the representation has been rejected by a non-speaking and sketchy order.

14. There is merit in the contention of the Petitioner that in his representation dated 23.08.2024 he has given the details of the status of the FIRs registered against him including the fact that he stands acquitted in two of them and in one, the implication is on account of his name and village being common with another person namely Vikram and is plainly a mistake. Respondent had rejected the representation without indicating any reason by simply stating that the request of the Petitioner for personal hearing to clarify the Police Verification Report with respect to cancellation of his candidature, is rejected by the Competent Authority. It needs no reiteration that Respondent No.1 was required to look into the crucial aspect on the status of the FIRs as brought forth by the Petitioner as that may have a bearing on his case. However, the order does not even remotely suggest the reason for rejection of the representation.

15. Therefore, without entering into the merits of the case, this writ



petition is disposed of with a direction to Respondent No.1 to re-consider the case of the Petitioner taking into account the facts brought forth by him in his representation dated 23.08.2024 as also the legal issues highlighted in this writ petition. Before taking the final decision, Petitioner will be given a personal hearing to explain the Police Verification Report, which according to the Petitioner, is allegedly false and/or factually incorrect. The date of personal hearing will be intimated to the Petitioner two weeks in advance in writing. The entire exercise of hearing and taking a decision will be completed within two months from the date of receipt of this order.

16. Needless to state if the decision is in favour of the Petitioner, further steps will be taken by Respondent No.1 to issue an appointment letter forthwith. However, if the decision is otherwise, a reasoned and speaking order will be passed, which will be communicated to the Petitioner within one week from the date of decision and he will be at liberty to take recourse to legal remedies.

17. Pending application also stands disposed of.

JYOTI SINGH, J

NOVEMBER 28, 2024

B.S. Rohella/shivam