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

+ **W.P.(C) 8866/2025**

LOMASH SHARMA & ANR.

.....Petitioners

Through: Mr. M.S. Yadav, Mr. Ashok
Tobria, Mr. S.Y. Usmani, Mr.
Sachin Sharma, Mr. Sahil Kaushik,
Mr. Mayank Yadav & Mr. Sachin
Soni, Advocates.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Dr. B. Ramaswamy, CGSC for
UOI. [M:-9999605344]

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

% **02.07.2025**

CM APPL. 37867/2025 (for exemption)

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(C) 8866/2025

1. The petitioners are both pilots working for respondent No. 4-Spice Jet Pvt. Ltd. They have filed this petition under Article 226 of the Constitution, for the following reliefs:-

“(i) Issue a Writ of Mandamus under article 226 and/or any other appropriate Writ thereby commanding/directing the respondents no. 1, 2 and 3 to issue necessary guidelines to prevent arbitrariness of the respondent no. 4;

(ii) Issue a Writ of Mandamus and/or any other appropriate Writ directing and prevent the respondents No. 4 to bind the petitioners and other employees in unfair agreement indemnity bond cum service undertaking;

(iii) Direct the Respondent No. 4 to strictly follow the rules of law

(iv) Direct the Respondent no. 4 to strictly follow the objectives for which the respondent no. 5 was formed.

(v) Pass an order to clubbed the entire pending litigations in a specific designated Courts.



- (vi) *Direct the Respondent no. 1, 2 and 3 to form a committee to resolve the problems of the employees.*
- (vii) *Direct the Respondent no. 1, 2 and 3 to establish a Grievance Redressal System for the employees.*
- (viii) *Issue directions and restraint the Respondent no. 4 from making such bias agreements which violates the basic rights of the employees.”*

2. The petitioners’ principal contention is that respondent No. 4 illegally takes undertaking from pilots to serve for a specified period, which it seeks to enforce by way of indemnity bonds signed by them. They also seek various directions against the Union of India [“UOI”], Ministry of Civil Aviation, and Directorate General of Civil Aviation [“DGCA”] for enforcement of guidelines with regard to the terms and conditions of service of pilots, generally.

3. The petitioners have contended that enforcement of the indemnity bonds has resulted in proceedings being taken against them, and several other similarly placed employees, under Section 138 of the Negotiable Instrument Act, 1881 [“NI Act”]. The proceedings have led to conflicting decisions. A copy of a judgment dated 16.12.2024, rendered by the Court of Judicial Magistrate First Class, Patiala House Court, in the case of petitioner No. 1, convicting him for an offence under Section 138 of the NI Act, has been placed on record, as also a judgment in the case of another pilot dated 04.05.2023, rendered by the Court of Metropolitan Magistrate, Rouse Avenue, by which the concerned employee was acquitted allegedly in similar circumstances.

4. As far as the petitioners’ disputes with respondent No.4, concerning enforcement of indemnity bonds are concerned, those cannot be the subject matter of proceedings under Article 226 of the



Constitution. Respondent No. 4 is admittedly is not a public sector enterprise or otherwise “State” under Article 12 of the Constitution. Consequently, contractual disputes with regard to employment of the petitioners with respondent No. 4, would have to be agitated in appropriately constituted civil proceedings, and not by way of a writ petition under Article 226 of the Constitution.

5. As far as the proceedings under Section 138 of the NI Act are concerned, Mr. M.S. Yadav, learned counsel for the petitioner, states that petitioner No. 1 has already filed an appeal against the judgment dated 16.12.2024, which remains pending. No further orders are, therefore, required in that regard.

6. The only remaining contention of Mr. Yadav is that the statutory authorities ought to enforce the guidelines issued by them. However, the petitioners have not even made a representation to UOI or DGCA with regard to any grievances. They must first ventilate their grievances administratively.

7. The writ petition is disposed of with the above observations, making it clear that the petitioners may avail the alternative remedies available to them. In the event they may make a representation to DGCA, it is open to DGCA to consider the representation in accordance with law, failing which the petitioners may avail appropriate remedies. As respondent No.4 is not represented, it is made clear that this Court has not examined the merits of any grievances raised by the petitioners.

PRATEEK JALAN, J

JULY 2, 2025 ‘pv/AD’/