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

Date of decision: 08.07.2025

+ TR.P.(C.) 112/2025

DR. VANDANA BAGGA

.....Petitioner

Through: Mr.Abhijit Mishra, Ms.Payal
Bahl, Mr.Vikhyat Gupta and
Mr.Prashant Jaiswal, Advs.
along with Petitioner in Person

versus

VINAI KUMAR SAXENA & ORS.

.....Respondents

Through: Nemo

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE RENU BHATNAGAR

NAVIN CHAWLA, J. (ORAL)

CM APPL. 39582/2025 (Exemption)

1. Allowed, subject to all just exceptions.

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2. This petition has been filed by the petitioner under Article 228 of the Constitution of India, praying for the following reliefs:

"A. Kindly be pleased to allow, the present Transfer Petition (Civil) under the aegis of Article 228 of the Constitution of India and be pleased to address the significant question of law requiring interpretation of Constitution of India i.e., "Whether a Lieutenant Governor of Government of NCT of Delhi as appointed under Article 239 of the Constitution of India immune from the Contempt Jurisdiction of Central Administrative Tribunal under aegis of Article 17 of the Administrative Tribunal



Act, 1985 for his official act of willful disobedience of the Order of Central Administrative Tribunal? " arising out of the matter i.e., Contempt Petition (Civil) No. 104 of 2025 vide title Dr: Vandana Bagga vs Vinai Kumar Saxena which is pending before the Hon'ble Central Administrative Tribunal, Principal Bench which is subordinate to the High Court of Delhi.

B. Kindly be pleased to allow the present Transfer Petition (Civil) under the aegis of Article 228 of the Constitution of India and be pleased to withdraw the matter i.e. Contempt Petition (Civil) No. 104 of 2025 vide title Dr: Vandana Bagga vs Vinai Kumar Saxena which is pending before the Hon'ble Central Administrative Tribunal, Principal Bench and be pleased to adjudicate to its finality."

3. At the outset, we have put to the learned counsel for the petitioner whether Article 228 of the Constitution of India can be invoked to transfer a petition pending before the learned Central Administrative Tribunal, which has been constituted under the Administrative Tribunals Act, 1985.

4. The learned counsel for the petitioner submits that the learned Tribunal is also a "Court subordinate to the High Court".

5. In support of his submission, he places reliance on the Judgment of the Supreme Court in ***State of West Bengal and Ors. v. Samar Kumar Sarkar***, (2009) 15 SCC 444, and submits that, in the said case, it was held that Article 228 of the Constitution of India can be invoked for transferring a matter pending before the learned Tribunal to the High Court where a substantial question of law as to



the interpretation of the Constitution of India is involved.

6. We are unable to agree with the submission made by the learned counsel for the petitioner.

7. Article 228 of the Constitution of India empowers the High Court to transfer to itself a case pending in a “Court subordinate to it” involving a substantial question of law as to the interpretation of the Constitution of India. However, the learned Tribunal is not a “Court subordinate to the High Court”. Although the High Court may exercise the power of superintendence over the Tribunal under Article 227 of the Constitution of India or under Article 226 of the Constitution of India, that does not render the Tribunal a “Court subordinate to the High Court”.

8. In **Samar Kumar Sarkar** (supra), the Supreme Court has held that Article 228 of the Constitution of India covers a different field from that covered by Articles 226 and 227 of the Constitution of India. Therefore, reliance on the aforementioned Judgment is also misplaced. We may quote the relevant paragraph from the Judgment as under:

“16. Article 228 of the Constitution covers a different field from that covered by Articles 226 and 227 of the Constitution. It lays down the procedure regarding transfer of a case pending in courts subordinate to the High Court. This power is not to be founded both under Articles 226 and 227 of the Constitution. The conditions that require to be fulfilled before Article 228 of the Constitution can be applied are, that a case must be pending in the court subordinate to the High Court, the case must involve a substantial question of law as



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to the interpretation of the Constitution or the Government of India Act, 1935 and the determination of the question of law must be necessary for disposal of the case. Once these three conditions are fulfilled, the article requires that the High Court will withdraw the case and then may either dispose of the case itself or determine the question of law and return the case to the court from which the case has been withdrawn.”

9. In view of the above, we find that the present petition is not maintainable. The same is, accordingly, dismissed, leaving it open to the petitioner to avail of her appropriate remedies in accordance with law.

NAVIN CHAWLA, J

RENU BHATNAGAR, J

JULY 8, 2025/Arya/DG

Click here to check corrigendum, if any