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

+ **W.P.(C) 4663/2019**

R.B. SAXENA & ORS

.....Petitioners

Through: Mr. Atul Bandhu, Ms. Deepika Jain
and Mr. Rishabh, Advocates.

versus

THE CHIEF SECRETARY & ORS

.....Respondents

Through: Mrs. Avnish Ahlawat, SC (GNCTD)
with Mr. N.K. Singh, Ms. Aliza Alam
and Mr. Mohnish Sehrawat,
Advocates for R-1 & 2.
Mr. R.K. Vats and Ms. Kumari Alka,
Advocates for R-3 to 5.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

12.02.2026

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1. The Petitioners are employees of Indraprastha Power Generation Company Limited (“IPGCL”). They challenge Office Order No. GM(HR)/2019-2020/05 dated 26th April, 2019, by which Respondent No. 5, Mr. S.P. Singh, then posted as General Manager (Technical), was transferred and posted as General Manager (Vigilance) and was also entrusted with vigilance work relating to Delhi Transco Limited. The core plea is that there is no such post of G.M. (Vigilance) and no recruitment rules for it, rendering the posting illegal. The petition also alleges conflict of interest and insinuates that the arrangement was engineered to facilitate vigilance clearance for Respondent No. 4, Mr. Jagdish Kumar, who was approaching superannuation.



2. The petition was earlier dismissed by this Court *vide* order dated 1st May, 2019. In appeal [LPA No. 515/2019], the Division Bench of this Court, by order dated 7th August, 2019, restored the petition for fresh hearing and expressly kept all objections on maintainability open.

3. During the pendency of these proceedings, Respondent No. 5 has superannuated. This is not disputed at the hearing. Petitioners No. 1 and 3 nonetheless press for a decision.

Petitioners' Submissions:

4. Mr. Atul Bandhu, counsel for the Petitioners, submits that the impugned office order dated 26th April, 2019 is not a routine internal reshuffle. The order created or, at the least, operationalised a sensitive vigilance position titled “*General Manager (Vigilance)*” in a manner unknown to the governing service structure of the IPGCL, and then placed Respondent No. 5 in that position at a time when serious complaints were allegedly in circulation and vigilance clearance issues were said to be pending.

5. He further argues that the IPGCL could not have assigned the title and functions of “*General Manager (Vigilance)*” unless the post was sanctioned and the framework of holding the post was traceable to rules or a duly approved organisational framework. The recruitment rules do not recognise the post of G.M. (Vigilance) and, therefore, the impugned order travels beyond the IPGCL’s authority. Further, the explanation of ‘*re-designation*’ is legally impermissible unless it is supported by a decision taken by the competent body in accordance with the governing documents of the IPGCL, and with due regard to the sensitivity of a vigilance post. In this view, the order is void and incapable of being sustained merely as an administrative



arrangement.

6. Mr. Bandhu invokes the administrative law principle against bias, encapsulated in the rule *nemo judex in causa sua*, and submits that the vigilance set-up, by its nature, must inspire confidence and remain insulated from internal conflicts.

7. He argues that Respondent No. 5 was himself under a cloud and that complaints touching financial irregularities had been made. Placing such an officer in a vigilance role, at the point when those very issues required scrutiny, amounts to allowing the officer to become “*master of his own cause*”. The very purpose of a vigilance arrangement is to ensure independent examination of allegations. A posting that undermines that independence is fundamentally incompatible with fair administration.

8. He further argues that Respondent No. 4 was nearing superannuation, and the posting of Respondent No. 5 as G.M. (Vigilance) was orchestrated to ensure favourable movement on vigilance clearance and to neutralise complaints, rather than to uphold accountability. This action is arbitrary, capricious and tainted by *mala fides*.

9. The Petitioners had addressed complaints to higher authorities, and the matter of vigilance clearance and examination of allegations was said to be pending consideration. In that backdrop, IPGCL ought to have ensured a genuinely independent enquiry mechanism, including the appointment of an appropriate enquiry officer where warranted, instead of installing an “*insider*” in a vigilance role.

10. On the objection that Respondent No. 5 has since superannuated, Mr. Bandhu submits that the challenge does not become academic. The argument is that if the appointment/posting was *void ab initio*, the Court is



not rendered powerless merely because time has passed. The Court should still pronounce on legality to prevent recurrence, to correct an asserted institutional wrong in a public undertaking, and to ensure that vigilance administration is not reduced to a formal label.

11. On instructions, Mr. Bandhu also submits that the petition, in substance, is an assertion that a public office was held without lawful authority and that, in such matters, standing is not confined to a rival candidate. Thus, an adjudication on legality and appropriate consequential directions are pressed.

Respondents' Submissions:

12. Mr. R.K. Vats, counsel for Respondents No. 3 to 5, raises a threshold objection of locus and maintainability. The petition contains no pleading that the Petitioners were eligible candidates for the post or that they were non-appointees who suffered any direct civil consequences. The petition is not framed as a *quo warranto* petition; and even if it is examined through that lens, *quo warranto* lies only where there is a clear breach of statutory provisions or statutory rules, which is not pleaded here.

13. On merits, the Respondents explain that the post of G.M. (Safety) was vacant for long, and, for administrative exigency, it was re-designated as G.M. (Vigilance). Respondent No. 5, then the senior-most G.M. (Technical), was posted as G.M. (Vigilance) with the approval of the competent authority, and the Board of Directors granted *ex post facto* approval for the re-designation and noted the appointment by resolution dated 17th May, 2019. It is also denied that any vigilance case was pending against Respondents No. 4 and 5, with vigilance clearance for Respondent No. 4 issued by the Directorate of Vigilance, GNCTD, by letter dated 31st May,



2019.

Analysis:

14. The primary relief is to quash an appointment/posting to an office which Respondent No. 5 no longer holds. A writ court does not ordinarily decide service disputes in the abstract, divorced from any effective, operative relief. Once the tenure has ended, the quashing of the posting order becomes, at best, a declaration without consequence. No exceptional feature is shown to warrant adjudication despite superannuation, such as a live contest over continuing benefits, a subsisting statutory disqualification, or a recurring illegality capable of repetition yet evading review. On this short ground, the petition is liable to be dismissed as infructuous.

15. Even otherwise, the petition falls at the maintainability threshold. In service matters, the ordinary rule is that Article 226 is invoked by an aggrieved person whose own legal rights are affected. The Petitioners do not plead that they were candidates for, or eligible to be considered for, the posting in question. The relief sought is, in substance, to police an internal posting and to supervise vigilance administration, without a demonstrated personal legal injury.

16. Petitioners No. 1 and 3 have attempted to pitch the challenge as one of ‘*authority of law*’ by asserting that a writ of *quo warranto* can be maintained without strictly insisting on locus. That formulation is correct only to a point. *Quo warranto* is a narrow remedy. It permits the court to examine whether a person holds a public office without legal authority, and the enquiry is confined to breach of statutory provisions or statutory rules governing eligibility and appointment, not to disputed questions about



suitability, desirability or administrative preference.¹ The Respondents are however justified in pointing out that the petition is not framed as *quo warranto* and, even if examined on that footing, lacks the foundational pleading of breach of any statutory recruitment rule or a statutory appointment provision.

17. Moving on to the Petitioners' central grievance. Mr. Bandhu argues that there were no recruitment rules for G.M. (Vigilance), hence no post, and hence no appointment could have been made. That is an overstatement. Organisational structuring within a government company, including re-designation of a vacant post and internal posting of an officer to discharge vigilance functions, is not shown to be prohibited by any statutory rule placed before the Court. The petition relies largely on broad notions of vigilance propriety and avoidance in conflict but does not anchor the challenge in a specific statutory bar. *Quo warranto* cannot be converted into a roving enquiry into 'best practices', nor can it be used to mount, indirectly, a service-PIL, a course consistently disfavoured².

18. On merits as well, the Petitioners do not cross the limited threshold of judicial review. The material on record indicates that IPGCL did not purport to create a fresh civil post by executive fiat but adjusted an existing vacancy within its organisational framework. A post of G.M. (Safety) had remained unfilled and, to meet functional requirements, its duties were re-designated to discharge vigilance functions. Such internal structuring and allocation of responsibilities lie primarily within the managerial domain. In exercise of

¹ *Hari Bansh Lal v. Sahodar Prasad Mahto & Ors.* (2010) 9 SCC 655.

² See: *Dr. Duryodhan Sahu & Ors. v. Jitendra Kumar Mishra & Ors.* (1998) 7 SCC 273; *B. Srinivasa Reddy v. Karnataka Urban Water Supply & Drainage Board Employees' Assn. & Ors.* (2006) 11 SCC 731 (2).



jurisdiction under Article 226, the Court does not sit as an appellate authority over administrative choices, nor does it examine the correctness of the decision itself, but only the legality of the decision-making process. Interference would arise only if the action is shown to be contrary to a statutory provision, vitiated by *mala fides*, affected by procedural impropriety, or so arbitrary or irrational that no reasonable authority could have taken it.³ Tested on these parameters, the impugned decision does not warrant judicial interdiction.

19. Here, the re-designation was placed before the Board of Directors, which granted *ex post facto* approval by resolutions dated 17th May, 2019. In these circumstances, the Petitioners' '*no post/no rules*' submission cannot sustain. The submission proceeds on an implicit assumption that every designation corresponds to a distinct statutory post requiring independent recruitment rules. Service jurisprudence does not proceed on such a premise. A distinction has always been recognised between the creation of a post carrying statutory incidents of appointment and tenure, and the internal allocation of functions within an existing sanctioned cadre. While the former must trace its source to governing rules, the latter ordinarily falls within the employer's administrative domain. The material on record indicates only a re-designation of a vacant position and assignment of vigilance responsibilities to meet organisational needs, not induction into a new cadre or entry into service through a fresh mode of recruitment. In that situation, the absence of separately framed recruitment rules for the nomenclature "*General Manager (Vigilance)*" does not, by itself, invalidate the arrangement. Unless a specific statutory prohibition or binding norm

³ *Tata Cellular v. Union of India* (1994) 6 SCC 651.



regulating such internal deployment is demonstrated, the Court would be transgressing into managerial decision-making were it to evaluate how the employer ought to structure or man its vigilance functions.

20. The petition also proceeds on the premise that Respondent No. 5's posting was intended to manage vigilance clearance of Respondent No. 4. The record placed shows that vigilance clearance, in any event, lay with the Directorate of Vigilance, GNCTD, and clearance was issued by letter dated 31st May, 2019. In the absence of cogent material, the Court is not persuaded to sustain insinuations of corruption and *mala fides* merely because the Petitioners assert that complaints were made or that a "*cloud*" existed.

21. Allegations of *mala fides* demand particulars and some credible foundation. Here, the petition's own narrative rests on assumptions and conjecture. There is another feature which reinforces the conclusion that discretionary relief is unwarranted. The Respondents have placed on record that disciplinary proceedings instituted against the Petitioners by Respondent No. 4 form the backdrop of the dispute, and one punishment had already attained finality, with two connected challenges by some of the Petitioners pending in W.P.(C) No. 890/2020 and W.P.(C) No. 12948/2019.

22. This context does not, by itself, decide rights. However, a writ court must insist on a clear legal wrong and not permit Article 226 to be deployed as a forum for collateral personal battles dressed up as litigation in the interest of "*public office*".

Conclusion and costs:

23. For all these reasons, the petition is dismissed. Petitioners No. 1 and 3 have continued to press this petition, despite superannuation of Respondent No. 5 and without a sustainable legal foundation, consuming avoidable



judicial time. Considering the same, Petitioners No. 1 and 3 are directed to deposit cost of INR 10,000/- each with the Delhi High Court Legal Services Committee, within a period of four weeks from today.

24. Accordingly, the petition stands dismissed. Pending applications, if any, also stand disposed of.

SANJEEV NARULA, J

FEBRUARY 12, 2026/as