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

+ W.P.(C) 11855/2022 and C.M. No. 35370/2022

ASHISH KUMAR SRIVASTAVA Petitioner

Through: Mr. Rudra Vikram Singh &
Mr.Manish Kumar, Advocates.

versus

GOVT. OF NCT OF DELHI & ORS. Respondents

Through: Mr. Chetan Sharma, Additional
Solicitor General with Mr. Kirtiman
Singh, Mr. Waize Ali Noor, Mr. Amit
Gupta, Mr. Rishav Dubey, Mr. Sahaj
Garg, Mr. Kunjala Bhardwaj, Mr.
Madhav Bajaj & Mr.Saurabh
Tripathi, Advocates for respondent/
UOI.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

16.08.2022

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1. The petitioner before this Court who is claiming himself to be a social worker has filed the present petition as a Public Interest Litigation under Article 226 of the Constitution of India stating that respondent No.5, Mr. Satyendra Jain is facing criminal prosecution pursuant to Registration of FIR bearing No. RC-AC1-2017-A0005 registered on 24.08.2017 at Police Station: Central Bureau of Investigation, Anti-Corruption-1, New Delhi for offences under Section 13(2) read with Section 13(1)(e) of the Prevention of Corruption Act, 1988 and Section 109 of the Indian Penal Code.

2. The petitioner's contention is that respondent No.5 is holding the post of Cabinet Minister in the Government of NCT of Delhi and the Enforcement Directorate has also registered one ECIR No. ECIR/HQ/14/2017 on 30.08.2017.

3. The Petitioner has further stated that the respondent No.5 was arrested on 30.05.2022 and he was sent to the custody of the Enforcement Directorate. It has been further stated that respondent No.5 has moved a bail application being Bail Application No. 145/2022 before the Special Judge, Rouse Avenue Court, New Delhi and during the arguments it was placed on record by the Additional Solicitor General that the Respondent No.5 has stated before the Enforcement Directorate office that after the severe case of COVID, he does not remember many things like the signatures and he also does not remember the name of the trust or organisation he is a member of. The petitioner has gone to the extent of stating that respondent No.5 has himself declared that he has lost his memory and in those circumstances, the petitioner has prayed for the following reliefs in the PIL.

“a. A writ in the nature of Mandamus thereby declaring the Respondent No. 5 a person with unsound mind and subsequently disqualify him for being the member of Legislative Assembly and apparently the Minister in Govt. of NCT of Delhi.

b. A writ in the nature of Mandamus thereby directing the Respondent No. 2 to disqualify the Respondent No. 5 for being the Member of Legislative Assembly.

c. A writ in the nature of Mandamus thereby directing the Respondent No. 3 to constitute a Medical board to analyse the mental condition of Respondent No.5.

d. A writ in the nature of Mandamus thereby directing the Respondent No. 1 to declare all the decision null and void taken by the Respondent No. 5 after he suffered from Covid and consequently has lost his memory.

e. Such order Writ (s), order (s), or direction as is deemed fit and proper in the premises of the case, which is not specifically prayed for hereinabove. ”

4. This Court has carefully gone through the entire material on record and has also heard learned counsel for the petitioner at length. It is true that cases have been registered against respondent No.5 and respondent No.5 is facing prosecution for various offences under the Indian Penal Code, Prevention of Corruption Act as well as Prevention of Money Laundering Act. However, the fact remains that the Code of Criminal Procedure, 1973 is a complete code in itself which provides a mechanism in respect of investigation, inquiry and trial. The Code of Criminal Procedure caters to all contingencies and it is for the prosecution/ court to take appropriate steps in accordance with law.

5. This Court, based upon the averments made in the Writ Petition, in exercise of jurisdiction under Article 226 of the Constitution of India cannot declare the respondent No.5 as a person with unsound mind and cannot disqualify him from being a member of the Legislative Assembly or the Minister in the Government of NCT of Delhi in the facts and circumstances of the case.

6. Resultantly, the Writ Petition is dismissed.

SATISH CHANDRA SHARMA, CJ

SUBRAMONIUM PRASAD, J

AUGUST 16, 2022/N.Khanna