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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 3180/2020

SH. VIKRAM GAHLOT

..... Petitioner

Through: Mr. Dhananjay Jain and Mr. Randhir
Jain, Advocates.

versus

GOVT. OF NCT OF DELHI & ORS.

..... Respondents

Through: Mr. Anupam Srivastava, Advocate with
Ms. Divya Joshi, Advocate for
respondents No.1 and 2.
Mr. Dhruv Pande, Advocate for
respondent No.4/UOI.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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21.05.2020

The present matter has been heard by way of video conferencing.

This Court vide order dated 19th May, 2020 had directed the learned Standing counsel for respondents No.1 and 2 to file a status report. The order dated 19th May, 2020 is reproduced hereinbelow:-

“The petition has been listed before this Bench by the Registry in view of the urgency expressed therein.

The petition has been heard by way of video conferencing.

It is pertinent to mention that present public interest litigation has been filed seeking a declaration that the Delhi Minorities Commission Act, 1999 (for short “Act, 1999”) is ultra

vires and nonest as well as for removal of respondent no. 3 from the post of Chairman, Delhi Minorities Commission.

Mr. Anupam Srivastava, learned ASC for the respondent nos. 1 and 2 states that a Coordinate bench while dealing with prayer (b) of the present writ petition has passed an order dated 11th May, 2020 in W.P.(C) 3092/2020. He however states that his statement as recorded in the aforesaid order with regard to a show cause notice having been issued to respondent no. 3 is not correct and he shall be filing an application for correction/modification.

Keeping in view the aforesaid, Mr. Anupam Srivastava is directed to file a status report by 3 p.m., 20th May, 2020. A copy of the status report shall be emailed to the Court Masters as well.

List on 21st May, 2020.

The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through email.”

The order dated 11th May, 2020 passed in W.P.(C) 3092/2020 is reproduced hereinbelow:-

“1. This petition filed in public interest seeks a direction to respondent No. 1/Delhi Minorities Commission, respondent No. 2/GNCTD and respondent No. 3/ Lieutenant Governor of Delhi, to forthwith remove respondent No. 4 /Mr. Zafarul Islam from the post of Chairperson of Delhi Minorities Commission, in exercise of powers under Section 4(4)(f) of the Delhi Minorities Commission Act, 1999.

2. It is inter alia the contention of the counsel for the petitioner that the respondent No. 4 has abused his position of Chairperson of the Delhi Minorities Commission and his continuance on the said post is detrimental to public interest.

3. It has come on record that the term for which the respondent No. 4 was appointed, is coming to an end on 14th July, 2020. It is argued that if removal of the respondent No. 4 is delayed, this petition would become infructuous.

4. The counsel for the respondent Nos. 1 to 3 states that the Hon’ble Lieutenant Governor, Delhi has already directed steps to

be taken in this respect and on 08th May, 2020 a notice to show cause has already been issued to respondent No. 4 and decision would be taken.

5. *Having heard the counsels, we are of the opinion that since under Section 4(4)(f) of the Delhi Minorities Commission Act, the opinion whether a Member or a Chairperson of the Delhi Minorities Commission has abused his position and/or in the public interest is liable to be removed from the post of Chairperson or Member, is to be of the GNCTD, it is not open to this Court to order removal of the respondent No. 4 even before the respondents Nos. 1 to 3 have formed an opinion in this respect.*

6. *Once respondent Nos. 1 to 3 through counsel have stated that they have already initiated steps in this regard, it is expected that the respondent Nos. 1 to 3, considering that the term of appointment of respondent No. 4 is lapsing on 14th July, 2020, would take the decision expeditiously and within a reasonable time, so that the decision is not infructuous.*

7. *For disposing of the petition in terms of the above, the need to issue notice to respondent No. 4 is not felt.*

8. *The petition is disposed of in terms of above.”*

In accordance with the last order, a Status Report has been filed by the respondents No.1 and 2. The said report reads as under:-

“It is mentioned that a letter has been received vide D.O. No.F25(10)/RN/2020/61/16 dated 30.04.2020 received from Sh. Anil Baijal, Hon’ble Lt. Governor, Raj Niwas addressed to Sh. Arvind Kejriwal, Hon’ble Chief Minister, Delhi in which it is stated that “a social media post (copy enclosed) by Sh. Zafarul-Islam Khan, Chairman of Delhi Minorities Commission (DMC), the content of this post prima facie appear to have the potential of disturbing communal harmony in the city. The matter is particularly serious considering that one of the functions of DMC is to take recommendations for ensuring, maintaining and

promoting communal harmony in Delhi.

Hon'ble Lt. Governor has directed to the Administrative Department concerned to initiate action as per provision of Section 4 of the Delhi Minorities Commission Act against Sh. Zafarul-Islam Khan.

A copy of the same has been endorsed to the Chief Secretary and Commissioner of Police for appropriate action as per law.

Hence, Hon'ble Lt. Governor has already given directions to initiate action as per provision of Section 4 of the Delhi Minorities Commission Act against Sh. Zafarul-Islam Khan and the Administrative Department has been directed through Hon'ble Chief Secretary to make appropriate action as per law.

The Administrative Department has processed the file vide C.D No.000601746, File No.F.43(30)/Minority/Div.Comm/2020 (file is in the O/o Minister of Law) for taking action as per law with the proposal to seek reply from the Secretary, DMC regarding reply from Dr. Zafarul-Islam Khan, Chairperson, DMC in r/o social media post and Commission's view on social media post.

Further, action as per provision of Section 4 of the Delhi Minorities Commission Act, 1999 may be taken as per the directions of Hon'ble Lt. Governor."

This issues with the approval of the Competent Authority."

Learned counsel for petitioner states that despite the aforesaid order, no show cause notice has been issued to respondent No.3 till date.

Keeping in view the aforesaid as well as lack of any explanation for the incorrect statement as recorded in the order dated 11th May, 2020 passed in W.P.(C) 3092/2020, this Court disposes of the relief sought in prayer (b) by directing respondents No.1 and 2 to conclude the process under Section 4(4)(f) of the Delhi Minorities Commission Act against respondent No.3- Mr. Zafar-ul-Islam Khan in accordance with law within two weeks.

Issue notice qua prayer (a).

Mr. Anupam Srivastava, learned counsel accepts notice on behalf of respondents No.1 and 2.

Mr. Dhruv Pande, learned counsel accepts notice on behalf of respondent No.4.

They pray for and are permitted to file their respective counter affidavits within two weeks. Rejoinder affidavit, if any, be filed before the next date of hearing.

Issue notice to respondent No.3 by all modes including dasti and e-mail.

List the matter on 23rd June, 2020.

The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through email.

MANMOHAN, J

SANJEEV NARULA, J

MAY 21, 2020

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