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

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Judgment delivered on: 16.03.2017

+ W.P.(C) 2813/2016 & CM No. 11854/2016

P ROYCHAUDHURI

..... Petitioner

versus

J RAJESH & ORS

..... Respondents

and

+ W.P.(C) 3077/2016 & CM No. 13035/2016

P ROYCHAUDHURI

..... Petitioner

versus

NEMI CHAND JAIN & ORS

..... Respondents

and

+ W.P.(C) 3078/2016 & CM No. 13036/2016

P ROYCHAUDHURI

..... Petitioner

versus

DR. KISHORE CHANDKI & ORS

..... Respondents

Advocates who appeared in these cases:

For the Petitioner : Mr. Rakesh Tiku, Sr. Adv. with Mr. Prakash Gautam and Mr. Vivek Ojha, Advocates

For the Respondent : Mr. Vikram Jetly, CGSC with Mr. Giri Raj Shjarma, PRO for R-3/UOI
Mr. Sanjeev Narula, CGSC for CIC

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT
16.03.2017

SANJEEV SACHDEVA, J. (ORAL)

1. The petitioner who is a practising Advocate is aggrieved by certain personal remarks recorded by the CIC in paragraphs 5, 6 and 7 of the impugned order dated 16.03.2016 in WP(C) 2813/2016, in paragraphs 1 to 4 of the impugned order dated 29.03.2016 in WP(C) 3077/2016 and in paragraphs 1 to 4 of the impugned order dated 29.03.2016 in WP(C) 3078/2016, wherein it is recorded by the CIC that the petitioner (Advocate) who was representing the public authority had come alone without the complete official records and no one either the CPIO or FAA accompanied him. The CIC has further recorded that earlier also the petitioner generally appeared alone without the official records and that he is not fit to discharge his duties under the Advocates Act.

2. Learned senior counsel for the petitioner submits that it is not practically possible for the CPIO and the FAA to personally attend the hearing of each matter. The petitioner who was representing the authority was present in court and was carrying the case file in a digital form on his laptop.

3. It is submitted that the impugned directions against the petitioner were not passed on the ground that the petitioner was not in a position to render assistance to the court but the CIC has gone on the premise that the petitioner was not carrying physical paper in his hand and was not accompanied with the CPIO and FAA. In these circumstances, the CIC has passed the impugned orders making personal observations about the

advocate and banning him from appearance and directing the Government to appoint another advocate. He submits that even the impugned order records that the counsel was heard at length.

4. Learned senior counsel for the petitioner submits that there was no cause or reason for the authority to pass the order banning the petitioner from personal appearance in his professional capacity. Learned senior counsel for the petitioner submits that the petitioner is not impugning the merits of the impugned order and is only seeking expunction of the remarks recorded against the petitioner, Advocate.

5. Having heard the counsel for the parties, I am of the view that the facts do not justify passing of such an order against the Petitioner/Advocate. An explanation has been rendered by the counsel that he was carrying the file, though in a digital form, on his laptop, which was not taken into account by the CIC.

6. It may be noticed that the CIC has recorded observations against the petitioner (Advocate) on the ground that the complete official records was not available and the officer from the Ministry did not accompany him. An Advocate cannot be faulted, for the non appearance of the officer of the Ministry or non production of the official records.

7. The impugned orders do not refer to any specific order or direction passed by the CIC requiring the personal appearance of the officer of the public authority or production of the records. Though in an appropriate case the CIC may require the presence of an officer or production of records and directions for production or appearance may be issued, but no such

direction is referred to in the impugned order except a general observation that the petitioner generally appeared alone without official records and department's officer.

8. For non production of the record or non appearance of an officer despite directions, appropriate order may be passed against the officers, but the same does not justify recording observations against an advocate and banning the appearance of the advocate.

9. In view of the above, the personal observations recorded against the petitioner (Advocate) in impugned order dated 16.03.2016 in WP(C) 2813/2016, in paragraphs 1 to 4 of the impugned order dated 29.03.2016 in WP(C) 3077/2016 and in paragraphs 1 to 4 of the impugned order dated 29.03.2016 in WP(C) 3078/2016 are expunged and the order debarring the petitioner from appearance before the CIC and the direction to the Ministry to depute another Advocate are set aside.

10. The petitions are accordingly disposed of.

11. Copy of order be given *dasti* under signatures of the Court Master.

SANJEEV SACHDEVA, J

MARCH 16, 2017

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