

Ajay Garg vs Central Bureau Of Investigation on 9 January, 2019

Author: V. Kameswar Rao

Bench: Chief Justice, V. Kameswar Rao

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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ LPA 478/2018
AJAY GARG Appellant
Through: Mr. Vijay Aggarwal, Adv.

versus

CENTRAL BUREAU OF INVESTIGATION Respondent
Through: Mr. Narender Mann, Spl. P.P. (CBI)

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE V. KAMESWAR RAO
ORDER

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1. The grievance of the appellant in this writ petition is that he is facing prosecution in RC No. 07(A)/2018-ACIII under Section 13 (1) (2) read with 13(1)(e) of Prevention of Corruption Act, 1988 with regard to possession of disproportionate assets and in connection with the aforesaid case, he has been issued with the memos in question seeking information with regard to the source of the income. It is the case of the appellant that the information which was sought from the appellant is to be sought from the Investigating Officer which is stated in the performa itself and such information cannot be sought from him.

2. Taking note of the above, we had directed the respondent to file an affidavit of a competent officer. The same has been filed. In Paras 6 to 10 of the affidavit, the following assertions have been made:

"6. The known sources of income as explained in the Prevention of Corruption Act is "For the purposes of this section, "known sources of income" means income received from any lawful source and such receipt has been intimated in accordance with the provisions of any law, rules or orders for the time being applicable to a public servant."

7. That for the purpose of providing an opportunity to the petitioner Sh. Ajay Garg to explain the possession of assets found in his possession during the check period, my office received a letter from AC.III Branch, CBI requesting therein to seek details of income, expenditure and assets from Shri Ajay Garg as per prescribed Performa.

8. Therefore, the undersigned sent Memos dated 29 th May, 2018 and 18th June, 2018 to the petitioner seeking requisite information from him as per the Performa.

9. That the Memo's dated 29th May, 2018 and 18th June, 2018 were sent with the object of providing an opportunity to the accused Shri Ajay Garg for explaining the possession of assets by him and his family members during the check period.

10. That it is further submitted that it is entirely the discretion and liberty of the petitioner whether he wants to furnish the information sought through the Memos dated 29 th May, 2018 and 18th June, 2018 or not or wants to avail the opportunity of explaining the possession of assets by him. However, in future he shall be restrained from claiming that he was not given an opportunity by the investigation officer to explain the sources of income to acquire the assets possessed by him.

3. From the affidavit it is seen that the investigating officer is under an obligation to give an opportunity to the appellant to explain the possession of assets from his known sources of income and to give his say in the matter.

4. A statement is made by the learned counsel for the respondent that no coercive action either departmentally or otherwise shall be taken against the appellant till the culmination of the enquiry.

5. Taking note of the above, we see no reason to ask any further information from the appellant. It is the sole discretion of the appellant either to respond to the memos in question or avail the opportunity of explaining the possession of assets by him. However, in future he shall not claim that he was not given an opportunity by the investigation officer to explain the sources of income to acquire the assets possessed by him.

6. The direction issued in this matter is said to be in the peculiar facts and circumstances of this case only.

In view of above, the petition stands disposed of. Dismissed as infructuous.

CHIEF JUSTICE V. KAMESWAR RAO, J JANUARY 09, 2019/jg