

D.No 80733
6/5/14

IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P. (C) NO. 6414 /2013

IN THE MATTER OF:

MANOHAR LAL SHARMA

-- PETITIONER

VERSUS

UNION OF INDIA & ORS

... RESPONDENTS

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N.D.O.H -7/5/2014

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Through

(SUMEET PUSHKARNA)
Central Govt Standing Counsel
463, Lawyers Chamber, Block
Delhi high court
PH.NO.011-23071376

New Delhi
Dated: 5/5/2014

IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P. (C) No. 6414 of 2013

IN THE MATTER OF:

M.L. Sharma

...Petitioners

Versus

Union of India & Ors

... Respondents

SHORT AFFIDAVIT ON BEHALF OF THE RESPONDENT NO. 1,
THROUGH MINISTRY OF HOME AFFAIRS, UNION OF INDIA IN
COMPLIANCE OF ORDER DATED 12.03.2014.

I, Ashutosh Kumar Sinha, working as Director (MU&I), Ministry of Home Affairs, having office at NDCC-II Building, (Opposite JantarMantar) Jai Singh Road, New Delhi- 110001 do hereby solemnly affirm and declare as under:

1. That presently, I am working as Director with the answering respondent and as such I am well conversant with the facts of the case and I am competent to swear this affidavit on behalf of the answering respondent.
2. That present short reply affidavit is being filed while adverting to the contents of Writ Petition in general with leave and liberty of this Hon'ble Court to file a detailed seriatim reply if so directed by this Hon'ble Court or so required in the facts of the case subsequently. The answering respondents are confident that based upon the submissions hereinafter, this Hon'ble Court, would be apprised with the correct facts of the issue at hand.

A True Copy of the order dated 30.5.2012 in WP(C) No. 3412 of 2012 is being annexed herewith and marked as Annexure No. R-1.

6. That the answering respondent filed a status report in compliance of the order of this Hon'ble High Court and the Writ Petition No.3412 of 2012 was disposed of vide order dated 24.1.2014. The relevant Para of the order dated 24.1.2014 is reproduced herein ;

"We have perused the Status Report filed by the respondent. The Status Report would show that only few irregularities mentioned therein were found and those irregularities are not serious enough at this stage to warrant a criminal investigation. The report further shows that during inspection, no documentary proof in the record of the Association was found to show the use of the fund in any such political activity or in IAC Movement or agitation. Considering the fact that writ petition has already been disposed of on 30.05.2012 and a Status Report in compliance of the said order has also been filed, we see no good reason to keep this matter pending.

The matter is accordingly closed."

A true copy of Status Report filed by the answering respondent in WP(C) No.3412 of 2012 is being annexed herewith and marked as Annexure No. R-2

7. In light of the aforementioned litigation, it is submitted that the answering respondent wrote to the Chief Functionary of AamAadmi Party (AAP) vide letter dated 6.11.2013 requesting a point wise reply to the questionnaire pertaining to Bank Details, receipt and utilization of Foreign Communication, Assets and Investments made out of Foreign

Contribution and other details required to examine the foreign contribution /donation received by AAP.

A True Copy of letter dated 4.11.2013 is being annexed herewith and marked as Annexure No. R-3

8. It is submitted that AAP vide letter dated 18.11.2013 furnished a point wise reply to the questionnaire provided by the answering respondent and it was further stated by AAP that all the funds received are exclusively from Indian Companies or Indian Citizens or NRI's holding Indian Passport and hence falling under the category of Indian Citizens.

A True Copy of letter dated 18.11.2013 is being annexed herewith and marked as Annexure No. R- 4

9. That in reference to the letter dated 18.11.2013, further clarification was sought from AAP by the answering respondent vide its letter dated 31.12.2013. The answering respondent requested AAP to furnish details of Branch names and addresses of Banks with their Accounts. Further, the party was also requested to give the correct date of inception of AamAadmi Party. 24.11.13

A True Copy of letter dated 31.12.2013 is being annexed herewith and marked as Annexure No. R- 5

10. That vide letter dated 22.1.14, the answering respondent again requested AAP to furnish their bank details and other clarifications sought, as they had not responded till that time.

A True Copy of letter dated 22.1.14 is being annexed herewith and marked as Annexure No. R-6

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11. It is submitted that the answering respondent vide letter dated 24.1.2014 sought information from Election Commission of India regarding AAP's status, declarations submitted by AAP and its candidates before the Election Commission of India and other relevant information of AAP. Further, inputs and comments on alleged receipt and utilization of foreign contribution by AAP, were also sought from the Ministry of Finance and security agencies vide letter dated 24.1.14. (not annexed).

12. That vide letter dated 27.1.14, AAP disclosed the information which was sought by the answering respondent pertaining to their Bank details, address of their National Head Office and Delhi State Unit Office and their date of inception.

A True Copy of letter dated 27.1.14 is being annexed herewith and marked as Annexure No. R-7

13. It is submitted that allegations made by the petitioner with regards to the violation of FCRA, 2010 by Respondents No. 2 to 5 are being inquired into by the answering respondent. The answering respondent inspected the records of the associations namely, Kabir, India Vision Foundation and Navjyoti India Foundation, New Delhi on 21st-22nd August, 2012, 29th November, 2012 and 27th November, 2012 respectively to ascertain the nature of funds received by AAP and a status report has also being annexed with this Affidavit. The Status Report was already filed in the Hon'ble High Court, Delhi on 15.01.2013.

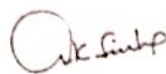
14. That the petitioner has stated in the petition that upon search of the political parties websites a list of twenty donors from outside India was found and the same is annexed as Annexure No. P3 to the petition. Information right

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from immigration authorities about the nature of citizenship of these twenty donors. However, the citizenship could not be ascertained due to insufficient parameter. It is further submitted that letter No. II/21022/58(0136)/2013-FCRA(MU) dated 15.04.2014 was also sent to Ministry of Finance, Department of Economic Affairs, New Delhi to provide inputs/comments of the donors mentioned in Annexure P3 of Petition. However, their reply is awaited by the answering respondent. Also, the answering respondent vide letter No. II/21022/58(0136)/2013-FCRA(MU) dated 11.04.2014 wrote to AAP to provide Passport details, addresses etc. of the donors mentioned in Annexure-P3 of the Petition and their reply is awaited as well.

15. It is further submitted that, the statement of bank accounts of AAP and its units were scrutinized to ascertain whether any donation received is from foreign source but the Bank records does not reveal whether the source is domestic or foreign. The details of contributions in excess of Rs. 20,000/- in 2012-13 filed by AAP with the Election Commission of India were also collected and scrutinized. The details of contributions revealed that eight persons with foreign addresses have made donations to AAP. Their passport numbers as mentioned in the contribution report of Election Commission of India were checked and it was found that they possess Indian Passports. Moreover, it is submitted that NRIs holding Indian Passports are not a foreign source. Hence donation received from them is not treated as Foreign Contribution as per FCRA, 2010.

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VERIFICATION:

I, the deponent named hereinabove, do hereby verify that the contents of the above counter affidavit are true and correct to my knowledge based on records and the legal submission are true and correct on the basis of information received and believed to be true and correct and nothing material has been concealed therefrom.

Verified at New Delhi on this day of May, 2014.


DEPONENT

Through

Advocate for the Respondent

Sumeet Pushkarna
(Central Govt. Standing Counsel)

New Delhi
Dated : May, 2014