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

+ **W.P.(C) 10016/2024**

AJAI KUMAR SHARMA & ORS.

.....Petitioners

Through: Ms. Arundhati Katju,
Mr. Animesh Kumar, Mr. Nishant Kumar,
Mr. Sumit Kumar, Ms. Shristi Borthakur,
Ms. Spriha Pachauri and Mr. Ayush Kumar,
Advs.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Naval Kishore Jha, SPC for
R-1 with Mr. G. B. Subbait, Director IB.
Mr. S. M. Arif, Mr. Shabnam Perween,
Mr. S. M. Aatif, Advs. for R-2 & 5.

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE DR. JUSTICE SUDHIR KUMAR JAIN

ORDER

% **22.10.2024**

CM APPL. 62067/2024

1. This application seeks modification of an order dated 23 July 2024 passed by the co-ordinate Bench of this Court at the time of issuing notice in the present writ petition.

2. The said order, which is short, may be reproduced thus:-

“1. Notice issued.

2. Mr. Nawal Kishore Jha, learned senior panel counsel accepts notice on behalf of respondent Nos.1 & 2.



3. On petitioners' taking steps, let notice be served upon respondent Nos.3 to 8 by all modes, returnable on 30.07.2024.

4. Re-notify on 30.07.2024.

5. Till further orders, the operation of impugned order will remain stayed and therefore, though during the pendency of the writ petition, the petitioner will be paid as per the promotional post, the said payment will remain, subject to the outcome of the present writ petition."

3. The aforesaid order was passed as far back on 23 July 2024. The present application has been filed in October 2024. A reading of the application reveals that the respondents have not complied with para 5 of the order dated 23 July 2024. Neither have the respondents chosen to challenge the said order by appropriate means.

4. By the present application, the respondents seek modification of the order dated 23 July 2024.

5. To our mind, a party who is in breach of an order passed by the Court cannot seek modification of the order, unless the order is *impossible of compliance*. The order is, on its express terms, not impossible of compliance, though the application contends that it was not justified on merits. Moreover, the order itself states that the compliance is subject to the outcome of the writ petition.

6. Mr. S. M. Arif, learned Counsel for the Respondents 2 and 5 submits that the respondents were not aware of the aforesaid order. In any event, before filing the present application, the respondents were definitely aware of the order.



7. We are not inclined to entertain an application for modification by a party who, in awareness of the directions passed by the Court, chooses not to comply with the directions and instead seeks a modification.

8. The respondents would be at liberty to move an appropriate application after complying with the order passed by the Court.

9. With the aforesaid observations, the application is dismissed.

C.HARI SHANKAR, J.

DR. SUDHIR KUMAR JAIN, J.

OCTOBER 22, 2024/sk

Click here to check corrigendum, if any