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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 11290/2023 & CM APPL. 43912/2023
CHIRANJIT SINGH BISHT Petitioner
Through: Mr. Sarvesh Singh and Ms.
Rajeshwari Mitra, Advocates.
versus
GOVT OF NCT OF DELHI AND ORS. Respondent
Through: Mr. Santosh Kumar Tripathi, SC,
GNCTD with Mr. Arun Panwar, Mr.
Pradyumn Rao, Mr. Utkarsh Singh,
Mr. Kartik Sharma, Ms. Prashansa
Sharma and Mr. Rishabh Srivastava,
Advocates.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SANJEEV NARULA

% **ORDER**
25.08.2023

1. The present Writ Petition is in the nature of a public interest litigation. It seeks the issuance of a writ of quo warranto against the appointment of Respondent No.4 as the Director of Prosecution, GNCTD (Director). Further, it challenges the Director (Prosecution) Recruitment Rules, 2021 (Recruitment Rules) as being *ultra vires* Section 25A of the Code of Criminal Procedure (CrPC).
2. Learned Counsel for the Petitioner asserts that Section 25A of the CrPC determines the mode of appointment to the post of Director. He argues that in this case, Respondent No. 4 was appointed to this position in violation of Section 25A(2), which specifies that the concurrence of the Chief Justice of the respective High Court is a necessary pre-requisite for

such appointment.

3. Mr. Tripathi, Learned Counsel for Respondent No.1/GNCTD admits that concurrence as prescribed under Section 25A(2) of the CrPC was not sought for the appointment of Respondent No.4. However, he explains that the procedure for appointment to the post of Director in the state of Delhi is not determined by the CrPC but instead by the Recruitment Rules. He argues that the procedure under Section 25A is not mandatory i.e., States have the discretion not to adopt it.

4. The central question herein is whether the Recruitment Rules supersede Section 25A with regard to the appointment of the Director in the state of Delhi.

5. Issue notice. Mr. Tripathi accepts notice on behalf of Respondent No. 1 and 3. Let a counter-affidavit be filed within 4 weeks. Rejoinder, thereto, if any, be filed before the next date of hearing. Let notice be issued to Respondent No. 2 and 4 on payment of process fee within 7 days, returnable on 18.10.2023.

SATISH CHANDRA SHARMA, CJ

SANJEEV NARULA, J

AUGUST 25, 2023

N.Khanna