



\$~10

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

+ W.P.(C) 134/2025

BRIJ MOHAN

.....Petitioner

Through: Ms. Geeta Luthra, Sr. Adv. with
Mr. Vidya Sagar, Mr. Prabhav
Pachory, Mr. Anirban Chanda,
Mr. Rishabh Dahiya, Mr.
Dennis Jacob, Ms. Shivani
Luthra Lohiya & Mr. Amulak,
Advs.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Ms. Manisha Agrawal Narain,
Ms. Amita Gupta & Mr.
Vedansh Anand, Advs. for
Resp./ UOI.
Ms. Bani Dikshit, Adv. for R-2.
Mr. Sudhir Nandrajog, Sr. Adv.
with Mr. Udit Malik, ASC with
Ms. Sheenu Priya, Ms. Rima
Rao, Ms. Palak Sharma & Mr.
Atik Gill, Advs. for Resp./
GNCTD.
Counsel for the CAG
(Appearance not given)

CORAM:

HON'BLE MR. JUSTICE YASHWANT VARMA

HON'BLE MR. JUSTICE HARISH VAIDYANATHAN

SHANKAR

ORDER

14.01.2025

%

1. The instant writ petition has been preferred seeking the following reliefs:

“(a) direct the Central Government, and/or the Hon’ble Lt. Governor and the CAG, to invoke above-mentioned constitutional and statutory powers and to publish above-mentioned CAG reports



on their respective portals, so that public knows the state of finances in Delhi before casting votes, and/or

(b) pass any other/directions which promote constitutionalism, democracy, and transparency in governance , and

(c) award costs to the petitioner.”

2. Ms. Luthra, learned senior counsel who appears in support of the writ petition draws our attention firstly to the following observations which came to be rendered by the Constitution Bench of the Supreme Court in **Association of Democratic Reforms and Another (Electoral Bond Scheme) v. Union of India and Others**¹:-

“**80.** The following principles can be deduced from the decisions of this Court in *ADR* and *PUCL*:

80.1. The right to information of voters which is traced to Article 19(1)(a) is built upon the jurisprudence of both the first and the second phases in the evolution of the doctrine, identified above. The common thread of reasoning which runs through both the first and the second phases is that information which furthers democratic participation must be provided to citizens. Voters have a right to information which would enable them to cast their votes rationally and intelligently because voting is one of the foremost forms of democratic participation;

80.2. In *ADR*, this Court observed that while the disclosure of information may violate the right to privacy of candidates and their families, such information must be disclosed because it furthers public interest. The opinion of Venkataramani Reddi, J. in *PUCL* also followed the same line of reasoning. M.B. Shah, J. writing for himself and D.M. Dharmadhikari, J. held that the right to privacy would not be infringed because information about whether a candidate is involved in a criminal case is a matter of public record. Similarly, the assets or income are normally required to be disclosed under the provisions of the Income Tax Act; and

80.3. The voters have a right to the disclosure of information which is “essential” for choosing the candidate for whom a vote should be cast. The learned Judges in *PUCL* differed to the extent of what they considered “essential” information for exercising the choice of voting.”

3. The case of the writ petitioner appears to essentially flow from an asserted right of disclosure of information and the right to know as

¹ (2024) 5 SCC 1



flowing from the Constitution.

4. Learned counsel appearing for the **Comptroller & Auditor General**² however, draws our attention to Chapter 4 of the Manual of Parliamentary Procedure and more particularly to the following passage appearing therein:

“(j) All reports, required to be laid on the Table of the House, will be released to the Press only after they have been so laid. However, reports under the Companies Act, 1956, may be circulated to the members directly by the government companies immediately after their annual general meetings and laid on the Table of the House as soon as possible thereafter.”

5. It was his submission that till the Report is actually tabled in the Legislative Assembly, the CAG can neither make a disclosure nor place the report in the public domain. The submission was that the constitutional obligation of the CAG is essentially confined to forwarding the report to the Hon’ble Lieutenant Governor and for further action being taken by the constitutional authorities thereafter.

6. This, prima facie, would have to be examined and appreciated alongside the observations that appear in the decision of the Supreme Court in *Association for Democratic Reforms*, Article 151 and on a consideration of the duties of the CAG under the Constitution.

7. On a preliminary consideration we further find that the Manual of Procedure would only regulate the laying of Reports and Accounts for the purposes of discussion and debate in the House. It may not, therefore and prima facie, detract from the over-arching right to information which is asserted by the writ petitioners.

8. In order to enable learned counsel for the CAG to address submissions in the aforesaid light, let this writ petition be called again on 24.01.2025.



9. We additionally accord liberty to learned counsel representing the CAG to place on our record such material including Regulations/ Directions which are proposed to be relied upon in the course of his submissions. Let the same be done on or before the next date fixed.

YASHWANT VARMA, J.

HARISH VAIDYANATHAN SHANKAR, J.
JANUARY 14, 2025/kk

² CAG