


**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Miscellaneous Petition No.7313/2023

Mewa Ram Jain S/o Shri Chintaman Das Jain, Aged About 70
Years, Sardarpura, Marg No.1, District Barmer, Rajasthan

----Petitioner

Versus

1. State Of Rajasthan, through Public Prosecutor
2. Director, Directorate of Enforcement, Pravartan Bhawan,
Dr. A.P.J. Abdul Kalam Marg, New Delhi
3. The Joint Director, Directorate of Enforcement, 2nd Floor,
Jeevan Nidhi- II, LIC Building, Bhawani Singh Road,
Jaipur, Rajasthan - 302005
4. The Assistant Director, Directorate of Enforcement, Zonal
Office, 2nd Floor, Jeevan Nidhi- II, LIC Building, Bhawani
Singh Road, Jaipur, Rajasthan - 302005

----Respondents

For Petitioner(s)	:	Mr. Vikas Balia, Sr. Advocate asst. by Mr. Falgun Buch
For Respondent(s)	:	Mr. B.P. Bohra, Central Government Standing Counsel & Counsel for E.D.

HON'BLE MR. JUSTICE FARJAND ALI

Order

22/11/2023

1. The present petition has been preferred by the petitioner under Section 482 CrPC seeking quashing of summons dated 20.11.2023 bearing No.PMLA/SUMMON/JPZO/2023/1024/1939 (F.No.:ECIR/JPZO/32/2023) issued by the Assistant Director, Directorate of Enforcement, Ministry of Finance, Government of India requiring presence of the petitioner before him in person on 22.11.2023, i.e. today.

2. It is contended on behalf of the petitioner that he is a candidate of Indian National Congress in the upcoming Legislative Election, 2023 and this fact is judicially noticeable that the polling of the same is going to be held on 25.11.2023. He received a notice on 20.11.2023 issued by the Enforcement Directorate expecting his presence before the Jaipur Office on 22.11.2023. The petitioner is engrossed and elbow-deep in election campaigning and it would be onerous for him to leave campaigning in between just in order to attend the call from the office of the respondent/Directorate of Enforcement. It is further contended that it is not discernible from the notice that the presence of the petitioner is required for what purpose; it is not even clear whether he has been summoned as a witness or as an accused. If he has been summoned as a witness, then it is not decipherable as to which matter is he required to be a witness in and for what purpose has he been summoned. It is not even clear what subject matter does the matter relates to and what kind of evidence is the petitioner required to present or give in case of him being called as a witness. The matter can relate to anything from money laundering or making of false documents to misappropriation of funds, income tax evasion or any other controversy pertaining to any tax statute or for that matter, pertaining to any other statutory provision. In absence of the above piece of information, it would be very harsh and impossible for him to leave the election campaign and travel for more than 500

kms to the respondent's office for the purpose of their satisfaction rather even if he is able to somehow go and mark his presence, it would not serve any purpose or satisfy the object of their summoning because he is clueless as to what matter he is to depose in if he is being summoned as a witness or in what matter he is to defend himself as an accused or under what facts and circumstances is he facing accusations if he is being summoned as an accused. It is further contended that if the petitioner has been summoned in relation to any accusation or he is an accused, then the petitioner has a statutory as well as a fundamental right to know what is the nature of accusation against him and what is the matter in which his presence is required. For the purpose of compliance, in the least, he has to know the nature of accusation so that he may reply appropriately. He, thus, submits that looking to the feasibility, practicability and present difficult situation, want of his presence at the office of the respondent on 22.11.2023 be dispensed with.

3. Per contra, Shri B.P. Bohra, learned standing counsel submits that the notice is under statutory proforma. The matter is pending inquiry before the Directorate and many things are required to be kept in secrecy and the same could not be disclosed to any one. He contends that the investigation of this case is underway and for the purpose of completion, the presence of the petitioner is required. Although he agrees that due to present election on 25.11.2023, the difficulty on part of the petitioner is comprehensible.

4. Heard learned counsel for the parties and gone through the material made available to this Court, more particularly the notice issued by the Directorate of Enforcement, Jaipur Zone.
5. Pondered over the issue. After anxious consideration of the matter made available as well as the submissions made at the bar, I am of this view that notice issued by the respondent department against the petitioner for this period is not appropriate in the given circumstances. In the least, the petitioner has a right to know the nature of accusation against him if he is an accused or if he has been summoned to depose a statement before the authorities, then he has a right to know for what purposes and in what matter his presence would be required so as to enable him to collect the requisite material in order to leave Barmer just to satisfy the summon of the respondent. The petitioner is a candidate in the upcoming State Legislative Assembly Elections, 2023, the polling for which is to be held on 25.11.2023 and it is understandable that his presence is inevitably required in his constituency and it would not be within reason and feasible for him to travel 500 kms. to the concerned Office at Jaipur and 500 kms. back to his constituency, that too, when it is not at all clear as to what is the purpose for the summons and in what capacity (accused/witness) he has been summoned. The petitioner is a candidate contesting State Legislative Assembly Elections and in a democratic setup like ours, his right to contest in an election encompasses the right to canvass as well. It is the opinion of this Court that if

the impugned summon is deferred for a period of about seven days then it would not result in any adverse impact on the proceedings as such. Moreover, even if the petitioner is made to appear in compliance of the summon, it would not serve any fruitful purpose.

6. Upon consideration, I am of the considerate view that the notice issued by the respondent Department deserves to be cancelled.
7. Accordingly, the instant misc. petition is allowed and the summons dated 20.11.2023 bearing No.PMLA/SUMMON/JPZO/2023/1024/1939 (F.No.:ECIR/JPZO/32/2023) issued by the Assistant Director, Directorate of Enforcement, Ministry of Finance, Government of India deserves to be quashed and set aside. A liberty is given to the Department that it may issue a fresh notice with better particulars for any dates post 3rd December, 2023 as by that time, the counting for the Election would have been completed. Needless to say, the petitioner would be at liberty to approach this Court again for redressal of his grievances that may persist, if any.
8. With these observations, the instant petition is disposed of.
9. The stay petition also stands disposed of.

(FARJAND ALI),J