

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

Judgment Reserved on: March 19, 2014
% *Judgment Delivered on: March 28, 2014*

+ **W.P.(C) 8805/2003**

CONSTABLE KULDEEP SINGH Petitioner

Represented by: Mr.M.G.Kapoor, Advocate

versus

UNION OF INDIA & ORS Respondents

Represented by: Mr.Prasouk Jain, Advocate
with Mr.Udit Gupta, Advocate and
Mr.Bhupinder Sharma, Deputy
Commandant, BSF

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MR. JUSTICE JAYANT NATH

PRADEEP NANDRAJOG, J.

1. The writ petitioner challenges the order dated April 09, 2003 passed by the Summary Security Force Court holding the petitioner guilty of the charge framed against him and inflicting the punishment of dismissal from service upon the petitioner. Statutory petition preferred by the petitioner has been rejected vide order dated November 21, 2003. Though the said order has been referred to in the pleadings it has not been challenged in the writ petition in the prayer clause, but we treat the same to be challenged because the order dated April 09, 2003 has merged in the order dated November 21, 2003.

2. The petitioner was enrolled as a Constable in the BSF and was attached to the 193rd Battalion. On March 06, 2003 the petitioner was detailed at Kabzi Adda Post, Batmaloo, Srinagar.

3. The next day i.e. on March 07, 2003 an offence report was put up before the 2I/C of the Battalion Sh.C.P.Trivedi, who was functioning as the Officiating Commandant of the Battalion because the Commandant was on long leave. The offence report listed the allegation that the petitioner had slapped and attacked HC Ashok Kumar and had showered blows upon him when he ordered the petitioner to build the morcha post. The record would evidence that after hearing the petitioner with respect to the offence report, the 2I/C, being the Officiating Commandant, directed Record of Evidence to be prepared.

4. At the Record of Evidence, seven witnesses were examined by the prosecution viz. HC Ashok Kumar PW-1, SI Bhajan Singh Negi PW-2, Insp.J.K.Rai PW-3, Ct.M.Rajan Meetu PW-4, HC Salimuddin PW-5, Asst.Comdt.S.G.Gangwar PW-6 and Dr.R.K.Pathak PW-7.

5. HC Ashok Kumar PW-1 deposed that on the day of the incident he was detailed for duty at the Platoon Post, Batmaloo, Srinagar. At around 17:15 hours the Coy Commander/Adjutant Asst.Comdt. S.C.Gangwar (PW-6) visited the post and asked him to expedite the construction of the new *Morcha*. Asst.Comdt.S.C.Gangwar expressed his indignation over the lack of control he had over his subordinate officers and told him that he (meaning herein Asst.Comdt. S.C.Gangwar) shall visit the post the next day and that he should ensure the completion of the construction of the new *morcha*. Having said this, Asst.Comdt.S.C.Gangwar left. Subsequently, he was directed by SI Bhajan Singh Negi to fall-in the available troops. He blew his whistle and signalled the troops to fall-in. He informed the troops about

Asst.Comdt.S.C.Gangwar's disappointment with the construction of the *morcha* and told them that the task must be completed at any cost by the next day. Having said this, he commanded the troops to start marching towards the site where the *morcha* had to be completed. At this, Ct.Jaypal interrupted the troops and said that only the Head Constables need to finish the task and the constables could leave and even said that any ensuing responsibility would be his. Ct.Jaypal and the petitioner left the site and the rest of the party resumed the work. After a few minutes the petitioner came to the spot with a cup of tea in his hand. He asked the petitioner why did he (meaning herein the petitioner) come back after having left without obtaining permission. Sensing that the petitioner will distract the troops from completing the task he asked the petitioner to leave. At this the petitioner threw the tea on his body and started slapping him. He was pushed to the ground and Ct.Jaypal tried to hit him with a *fatta*, but it was snatched by the other troops. At this he got up and started running to save himself. Petitioner chased him till the flag pole and continued hitting him all over his body. Ct.Jaypal also joined the petitioner and the two of them kept on hitting him. He suffered serious injuries on his teeth and on his head; and his clothes were torn. The other BSF personnel were too stunned to intervene. He ran towards Morcha No.1 to save himself. Petitioner continued chasing him and again attacked him saying that he (meaning herein the petitioner) would leave him helpless. At this, Ct.Rajan Meetu (PW-4) and HC Salimuddin (PW-5) intervened and took the petitioner away. He saw Asst.Comdt. S.C.Gangwar passing in a gypsy and he signalled the car to stop. He narrated the entire incident to Asst.Comdt.S.C.Gangwar who directed the Coy 2I/C Insp.J.K.Rai (PW-3) to arrest the petitioner and Ct.Jaypal and

transfer them to the Tac HQ; and to take him (meaning herein HC Ashok Kumar PW-1) to the MI room for medical examination.

6. On being examined by the Recording Officer he stated that he had known the petitioner since three years and had a good relationship with him. They did have a few disagreements regarding allocation of duties when he was the Post 2I/C. He denied having any disputes or quarrels with the petitioner in the past.

7. On being cross-examined by the petitioner he stated that he did not fabricate anything in his deposition. He truthfully narrated everything pertaining to the incident.

8. SI Bhajan Singh Negi PW-2, deposed that on the day of the incident Asst.Comdt.S.C.Gangwar (PW-6) visited the post and asked him to immediately complete the construction of the morcha post. He instantly directed HC Ashok Kumar (PW-1) to fall-in the troops for the completion of the said task. After sometime HC Ashok Kumar reported that some of the jawans had refused to work saying, "*Pehle Commander kaam par lagenge phir hum lagenge*". Thereafter, he went to the site and saw the petitioner coming with Ct.Jaypal from the direction of the mess. He heard HC Ashok Kumar ask the petitioner to go away saying that the commanders will complete the construction themselves. At this, petitioner threw his tea on the ground and slapped HC Ashok Kumar and a physical tussle started. Ct.Jaypal tried to hit HC Ashok Kumar with a *fatta* but missed. HC Ashok Kumar ran towards Morcha No.1 and the petitioner followed him. After sometime he went to Morcha No.1 where he met HC Ashok Kumar who reported that Ct.Jaypal and the petitioner had physically assaulted him again inside the morcha; and threatened him with dire consequences if he reported the matter to the Coy Commander. Thereafter, Asst.Comdt.S.C. Gangwar

and Insp.J.K.Rai arrived at the spot. Asst.Comdt.S.C.Gangwar directed that the petitioner and Ct.Jaypal be disarmed and sent to the Coy HQ for appropriate action. Thereafter, he made appropriate GD entries in the GD Register.

9. On being questioned by the Recording Officer he stated that he had known the petitioner since September 2002 and did not know of any previous quarrel or dispute between the petitioner and HC Ashok Kumar. On being questioned about HC Ashok Kumar's condition after the incident he stated that he saw that some buttons of HC Ashok Kumar's jersey were broken and he was bleeding from his head.

10. On being cross-examined by the petitioner he stated that he went to Morcha No.1 after the petitioner followed HC Ashok Kumar till Morcha No.1.

11. Insp.J.K.Rai PW-3 deposed that on the day of the incident Asst.Comdt.S.C.Gangwar (PW-6) and he were on their way to the Coy HQ in a gypsy after briefing the troops and assessing the progress of the preparation of morchas; when HC Ashok Kumar (PW-1) signalled them to stop the gypsy. HC Ashok Kumar reported that he had been physically assaulted by the petitioner and Ct.Jaypal. HC Ashok Kumar showed his torn jersey and swollen and bruised face. Thereafter, Asst.Comdt.S.G.Gangwar inquired about the incident from the Post Commander SI Bhajan Singh Negi (PW-2) and other officers. He was directed by Asst.Comdt.S.G.Gangwar to disarm the two delinquent officers and take them to the Coy HQ for taking appropriate actions. He was also directed to take HC Ashok Kumar for medical check-up. He did both.

12. On being questioned by the Recording Officer he stated that he was not aware of any previous dispute or quarrel between the petitioner and HC

Ashok Kumar. On being asked if he saw blood on HC Ashok Kumar's face, he answered in the negative.

13. On being cross-examined by the petitioner he stated that he knew about the swelling on HC Ashok Kumar's head because he had touched his head to confirm it.

14. Ct.M.Rajan Meetu PW-4, deposed that on the day of the incident he was detailed for sentry duty at Morcha No.1. At around 17:45 hours he heard noise emanating from the rear side of the morcha. He immediately went there and saw the petitioner holding the collar of HC Ashok Kumar (PW-1). He immediately intervened and separated the two. HC Salimuddin (PW-5) took the petitioner away. Thereafter, HC Ashok Kumar went towards Morcha No.2. He stopped Asst.Comdt.S.G.Gangwar's vehicle and reported about the incident. Thereafter, Asst.Comdt.S.G.Gangwar entered the morcha and inquired about the incident.

15. On being cross-examined by the petitioner he stated that the moment he entered the morcha he did not see any scuffle happening. He just saw the petitioner holding HC Ashok Kumar's collar and threatening him not to report about the incident to the Coy Commander.

16. Petitioner refused to cross-examine the witness despite opportunity being granted.

17. HC Salimuddin PW-5 deposed in sync with HC Ashok Kumar (PW-1) and Ct.M.Rajan Meetu (PW-4).

18. On being cross-examined by the petitioner he stated that he heard HC Ashok Kumar ask the petitioner why he had come back after breaking away from the fall-in. Thereafter inside the morcha he heard the petitioner ask HC Ashok Kumar not to telephone anyone about the incident.

19. Coy Commander/Adjutant Asst.Comdt.S.C.Gangwar PW-6 deposed in sync with SI Bhajan Singh Negi (PW-2) and Ct.M.Rajan Meetu (PW-4).

20. On being questioned by the Recording Officer he stated that he told the Post Commander and other Head Constables to complete the construction by the next morning and should they fail to do so, he would get the work completed by the Commanders themselves. On being questioned if he had received any complaints about the petitioner earlier he answered in the negative.

21. Petitioner refused to cross-examine the witness despite opportunity being granted.

22. Dr.R.K.Pathak PW-7 deposed that on the day of the incident HC Ashok Kumar (PW-1) was brought to the unit hospital by Insp.J.K.Rai (PW-3) at around 19:15 hours. He conducted the medical examination and prepared the medical examination report Exhibit 'B'.

23. Petitioner refused to cross-examine the witness despite opportunity being granted.

24. The prosecution witnesses having been examined, the petitioner was granted an opportunity to make a statement in his defence which he availed. The petitioner stated that on the day of the incident, at around 16:30 hours HC Ashok Kumar (PW-1) blew his whistle and commanded a fall-in. All the troops were directed to proceed towards the construction site for the completion of the morcha construction. The langar being en-route the construction site he picked up a cup of tea and continued proceeding towards the site. HC Ashok Kumar started hurling verbal abuses at him when he saw him. HC Ashok Kumar pushed him at which his tea fell on the ground; and held his collar. He tried to free himself from HC Ashok Kumar's clutch and in the process pushed him. At this, HC Ashok Kumar

started walking towards the flag pole . He followed HC Ashok Kumar apprehending that he may arm himself with his service weapon. He caught hold of HC Ashok Kumar near the flag pole but HC Ashok Kumar managed to free himself and proceeded towards Morcha No.2. He saw HC Ashok Kumar making a telephone call. He asked HC Ashok Kumar to get out of the morcha. When HC Ashok Kumar did not get out; he went inside and tried to pull HC Ashok Kumar out of the morcha by holding his jersey. He was apprehending that HC Ashok Kumar might use his weapon and do something foolish. At this Ct.M.Rajan Meetu (PW-4), the sentry on duty intervened and separated the two. He resumed his duty after that. Thereafter, Ct.Jaypal and he were summoned by the Coy Commander who asked them about the incident. He denied assaulting HC Ashok Kumar.

25. Petitioner called upon three witnesses in his defence viz. Ct.Devendra Kumar DW-1, Ct.Ramdas Waghate DW-2, Ct.Dalbair Singh PW-3.

26. Ct.Devendra Kumar DW-1 deposed that on the day of the incident, HC Ashok Kumar (PW-1) after directing a fall-in, told the troops that the morcha construction had to be completed the same day. He sought permission from HC Ashok Kumar to go to the barracks for tea. Thereafter, he came out to wash his tea-cup and heard that a scuffle had taken place between the petitioner and HC Ashok Kumar. He stated that since he was inside the barrack he did not know if there was any exchange of verbal abuses between HC Ashok Kumar and the petitioner nor could he tell who initiated the scuffle.

27. On being questioned by the Recording Officer he deposed that the petitioner did not break off from the fall-in on his own. He did hear Ct.Jaypal saying that only the Commanders were supposed to finish the construction of the morcha.

28. Ct.Ramdas Waghate DW-2 deposed that on the day of the incident he saw HC Ashok Kumar have a scuffle with the petitioner. Some troops intervened and both of them went away after that.

29. On being questioned by the Recording Officer he stated that he saw the petitioner and HC Ashok Kumar only pulling and pushing each other. On being questioned if he knew about any previous altercation between the petitioner and HC Ashok Kumar he answered in the negative.

30. Ct.Dalbir Singh DW-3 deposed that HC Ashok Kumar met the petitioner while the latter was walking with a cup of tea in his hand. HC Ashok Kumar warned the petitioner to act within the rules of the force, else he (meaning herein HC Ashok Kumar) will teach him how to do it. HC Ashok Kumar started hurling verbal abuses. A scuffle started at which troops intervened and separated the two. Thereafter, HC Ashok Kumar went towards Morcha No.1 and the petitioner followed him. He did not know what happened after that.

31. The Record of Evidence was placed before the 2I/C who was still functioning as the Officiating Commandant on April 03, 2003 and considering the same he opined that the petitioner should be tried at a Summary Security Force Court and for which he drew up a charge-sheet dated April 03, 2003 and served the same upon the petitioner the same day. The charge-sheet reads as under:

*“The accused No.88009053 Constable KULDEEP SINGH
‘C’ Coy of this Unit is charged with :-*

*BSF ACT SEC – 20(a)
USING CRIMINAL FORCE TO HIS SUPERIOR
OFFICER*

In that he,

At 17:30 hrs on 06-03-2003 when ordered by No.81193009 HC Ashok Kumar of the same Battalion to construct morcha at CI Post Kabzi Adda, slapped and struck with blows/fist to said Head Constable."

32. The record would reveal that the trial commenced on April 08, 2003 and the petitioner pleaded 'Not Guilty' to the charge at the arraignment. At the trial the 2I/C functioning as the Officiating Commandant presided over the Court.

33. The trial commenced with respect to the said charge and six prosecution witnesses were examined out of seven who were examined during Record of Evidence proceedings. But, in a different order. The order in which the prosecution witnesses were examined by the prosecution at the trial is as follows : HC Ashok Kumar PW-1, SI Bhajan Singh Negi PW-2, HC Salimuddin PW-3, Ct.M.RajanMeetu PW-4, Asst.Comdt.S.C.Gangwar PW-5, Dr.R.K.Pathak PW-6. They deposed in harmony with their depositions at the preparation of the Record of Evidence with the following additions:

(i) HC Ashok Kumar PW-1 deposed that the petitioner threatened to kill him when he ran to Morcha No.1 to telephone the Coy Commander.

(ii) Dr.R.K.Pathak PW-6 gave a detailed description of the injury suffered by HC Ashok Kumar. He stated that, *'I thoroughly checked HC Ashok Kumar and found that one abrasion mark on the left lateral side of his forehead near the hair-line. One palpation of scalp area; a lump was palpated in left pario-temporal region. I also found one bruise on the left side of his face just below the lower canthus of left eye. Blood clotted stains were also present at left nostril and in the moustache. One left incisor of left upper jaw also uprooted and found very tender. One bruise mark was also present on upper canthus of the left eyebrow.*

After examining HC Ashok Kumar, I opined that No.819330097 HC Ashok Kumar was physically assaulted by some blunt object.'

34. The petitioner was granted an opportunity to cross-examine the witnesses and he availed the same. He cross-examined the witnesses as per what he had cross-examined during Record of Evidence.

35. Record would evidence that the petitioner made a statement of defence during the trial which is in harmony with his statement made at the preparation of the Record of Evidence.

36. Petitioner called upon one defence witness at the trial viz.Ct.Dalbir Singh who deposed in harmony with his statement at the preparation of Record of Evidence with the addition that it was HC Ashok Kumar who pushed the petitioner first, because of which his tea fell on the ground.

37. As noted above the petitioner was held guilty of the charge and was punished with dismissal from service.

38. Laying a challenge to the punishment inflicted the contentions urged during hearing of the writ petition were :-

(i) Section 74 of the BSF Act, 1968 deals with the powers of a Summary Security Force Court. Vide sub-Section (4) a Summary Security Force Court was empowered to pass a sentence except the sentence of death or of imprisonment for a term exceeding the limit specified in sub-Section (5). As per sub-Section (5) the limit referred to in sub-Section (4) was one year imprisonment if the officer holding the Security Force Court had held either the post of Superintendent of Police or a post declared by the Central Government by a notification to be equivalent thereto for a period of not less than three years. In all other cases the sentence could be upto three months. Section 48 listed the punishments which could be awarded by the Security Force Court and one of which was the penalty of dismissal from the service.

It was urged that the penalty of dismissal from the service was more than the penalty of imprisonment upto three months, hence the second in command (2I/C) who presided over the Court could not inflict the penalty of dismissal from service.

(ii) Ct.Jaypal Singh's act of inciting the troops to break off from the fall-in and joining the petitioner in allegedly attacking HC Ashok Kumar was more grave but he was only sentenced to 89 days of imprisonment, whereas the petitioner was dismissed from service. This exudes bias against the petitioner.

(iii) 2I/C Offg.Commandant could not have ordered the trial of the petitioner. The order of assembly dated April 05, 2003 indicates that the order is by the Commandant while it has the signatures of 2I/C Offg.Commandant C.P.Trivedi.

(iv) The Court failed to consider the facts and circumstances leading to the incident. Petitioner's unit was deployed in an extremely tense area where the BSF personnel are under great mental stress because of the insurgency. Their life is always at risk. On the day of the incident the petitioner had been on patrolling duty since early in the morning. He returned to Kabzi Adda post at 16:30 hours after a very strenuous day. He was not allowed any rest and he was immediately directed to start working at the construction site.

(v) HC Ashok Kumar hurled verbal abuses at petitioner and held the petitioner's collar. Petitioner pushed him only to relieve himself. He chased and caught hold of HC Ashok Kumar only because he was apprehending that HC Ashok Kumar might have left to collect his service weapon.

(vi) The penalty of 'Dismissal from Service' is disproportionate to the offence in light of the facts and circumstances which led to the incident.

39. The first argument has a strange reason and a strange logic. It would be as follows : Section 48 of the BSF Act, 1968 prescribes the punishment which can be inflicted for offences upon being convicted by Security Force Courts, and one penalty prescribed is of dismissal from the service. Another penalty prescribed is imprisonment in force custody. As per Section 74(4) read with Section 74(5) an officer holding the rank of Superintendent of Police alone or equivalent thereto could inflict the punishment of imprisonment for a term exceeding one year and officers lower in rank could inflict the punishment of imprisonment till three months. The penalty of dismissal from service was harsher because it meant the end of the career. A punishment for imprisonment upto three months was a lesser punishment because the career was saved. The second in command was an officer lower in rank than the Superintendent of Police and thus he could have inflicted the punishment of dismissal from service.

40. The argument overlooks that as per SO-592 dated February 25, 1997 the post of Deputy Commandant has been declared equivalent to that of a Superintendent of Police. The 2I/C Sh.C.P.Trivedi was holding the rank of a Deputy Commandant and thus he would be an officer equivalent in rank to a Superintendent of Police. Besides, the Act nowhere prescribes major or minor punishments. Section 48 prescribes punishments, one of which is dismissal from the service. It may be true that the consequence of a penalty of dismissal from the service is harsh and that of imprisonment for a term not exceeding three months in force custody is less severe, but that would not mean that the 2I/C who was the Officiating Commandant and in said capacity presided over the Court could not have levied the penalty.

41. As regards the second submission, it being interlinked with the sixth submission pertaining to proportionality of the sentence in comparison with

the sentence imposed upon Ct.Jaypal Singh, we shall be dealing with the twin together while dealing with the sixth contention.

42. The third contention urged was having two limbs. The first was that the 2I/C could not have ordered the trial of the petitioner by taking cognizance of the Record of Evidence because under the BSF Act, 1968 and the BSF Rules, 1969 the Commandant alone is empowered to consider the Record of Evidence and pass necessary orders. It was urged that it is settled law that power conferred under Rules upon a person is a delegated power and a delegatee cannot further delegate.

43. The argument overlooks the fact that no sub-delegation has taken place. Relevant would it be to Rule 16(1) and 16(2)(a) of the BSF Rules, 1969 reads as under:

“16. Command - (1) An officer appointed to command shall have the power of command over all officers and men, irrespective of seniority placed under his command.

(2)(a) In the contingency of an officer being unable to exercise the command, to which he has been appointed, due to any reason, the command shall devolve on the second-in- command, if one has been so appointed.”

In the absence of the Commandant who was on long leave, the second in command (2I/C) of the Battalion was functioning as the Officiating Commandant and thus was exercising all powers of the Commandant, not as a sub-delegatee.

44. The fourth contention is premised as if the fact was proved that the petitioner had been on patrolling duty since early morning and had returned to the Kabzi Adda Post at 16: 30 hours and in between there was no time for the petitioner to rest. The argument was that having made petitioner perform duties for 12 hours it would be an unlawful command given by HC Ashok

Kumar to join other constables at the morcha and help in the setting up of the morcha. The petitioner has not led any evidence that he had performed patrolling duties for 12 hours. He has not given any suggestion to any witness that having performed patrolling duties till 16:30 hours he would be tired and thus to force him to work further would be torturous. The other facet of the argument was that petitioner's reaction had to be weighed with reference his physical condition i.e. he being tired. The underlying concept being that a person who had performed 12 hours strenuous duties would react snappily when asked to perform further strenuous duty and said fact had to be taken into account as a mitigating circumstance. The edifice of the entire argument was on the fact that petitioner had performed 12 hours strenuous duty till 16:40 hours. No such fact finds mention in the evidence.

45. The fifth argument is an imaginary to overcome the evidence that the petitioner chased HC Ashok Kumar from the morcha site firstly till the flag pole and therefrom till morcha No.1. The justification given by the petitioner to chase HC Ashok Kumar is that he believed that HC Ashok Kumar was running to bring a rifle and assault him. The justification overlooks the fact that if during a quarrel one combatant starts running away and the other combatant apprehends that he would arm himself with a weapon and hence chases him, the hot pursuit would be to restrain the combatant who was running away and not to beat him while running. The testimony of the witnesses who saw what happened is clear. Petitioner and Ct.Jaypal first assaulted HC Ashok Kumar at the morcha point. HC Ashok Kumar ran for his life. The two chased him till the flag pole and along the chase continued hitting him. At the flag pole whereas Ct.Jaypal thought that enough beating had been inflicted upon HC Ashok Kumar, the petitioner thought otherwise. As HC Ashok Kumar ran further away towards morcha point No.1 he

continued to chase him inflicting fist blows on him. Be that as it may, the inference whether petitioner chase HC Ashok Kumar propelled by an apprehension as explained by him or not was for the Court, and being a matter of fact, we cannot re-appreciate the evidence on the issue.

46. That takes us to the last limb pertaining to the second and the sixth argument urged. The argument was that whereas Ct.Jaypal was let off with a punishment of 89 days imprisonment in force custody, the petitioner was dismissed from service.

47. From the evidence it is apparent that the evidence against Ct.Jaypal was of having instigated the jawans not to obey the lawful command of HC Ashok Kumar followed by assaulting HC Ashok Kumar at the morcha followed further by chasing HC Ashok Kumar as he fled till the flag pole while continuing to assault him. The evidence against the petitioner is of being instigated by Ct.Jaypal followed by assaulting HC Ashok Kumar at the morcha followed further by chasing HC Ashok Kumar as he fled till the flag pole while continuing to assault him and further chasing him till morcha point No.1 and along the way continuing to assault him. In other words, on the origin of the assault, the aggravating feature is against Ct.Jaypal and as regards the assault, the aggravating feature is against the petitioner in that whereas Ct.Jaypal left the assault at the flag pole, the petitioner continued with the assault till HC Ashok Kumar ran to morcha point No.1.

48. It is apparent that the role of Ct.Jaypal is more aggravating than the petitioner because it was Ct.Jaypal who started the revolt. This aggravating factor far outweighs the aggravating factor against petitioner of continuing with the assault beyond the flag pole till the morcha point No.1.

49. But merely because Ct.Jaypal was let off lightly, albeit wrongly, would not mean that the petitioner would be entitled to parity. It is trite that equality cannot be claimed in the negative and on a wrong. If a benefit is wrongfully conferred upon 'A', 'B' cannot claim said wrong benefit invoking Article 14 of the Constitution.

50. We find no merit in the writ petition which is dismissed but without any order as to costs.

(PRADEEP NANDRAJOG)
JUDGE

(JAYANT NATH)
JUDGE

MARCH 28, 2014

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