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

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W.P.(C)No.315/2017

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Date of decision : 5th May, 2017

PURAN CHAND ARYA Petitioner

Through : None.

versus

UNION OF INDIA & ORS. Respondents

Through : Mr. Sanjay Jain, ASG with
Mr. Gaurang Kanth, Adv.

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MS. JUSTICE ANU MALHOTRA

JUDGMENT (ORAL)

GITA MITTAL, ACTING CHIEF JUSTICE

1. This writ petition against the entire Border Security Force and authorities, purporting to be in public interest, is premised on the unsubstantiated, bald statements in a video which went viral on the social media, reportedly made and uploaded by a jawan of the force who was posted along with line of control. It is an admitted position that this writ petition has been filed by the petitioner, without effecting any verification of the truth or the correctness of facts, complaining that the Jawans, serving on the borders of our nation, are being treated badly by the administration.

2. Notice in the instant writ petition was issued by the previous Bench on 17th January, 2017. In response thereto, a detailed affidavit has been filed by Sh. Ajai Singh, Deputy Inspector General (Personnel) in the BSF/respondent no.2. A bare perusal of the reply affidavit shows that the respondent no.2 has been and is very much concerned about the welfare of the jawans who are serving in this paramilitary force on the remotest borders of the nation. The respondents submit that the health and safety of the jawans and personnel of the Force are their prime responsibility.

3. It is further submitted that every effort has been made to ensure a transparent and effective measure for the procurement and distribution of healthy diet to the BSF personnel.

4. The Border Security Force has set out in the counter affidavit, the manner in which the procurement and distribution of ration is effected as well as several steps taken regarding survey, checks of both quality and quantity of the ration to ensure that the supplies are made not only as per the approved samples, but such which are correct in weight/numbers. The manner in which fresh ration like vegetables, etc. are procured is also explained.

The court is also apprised of the fact that there is a transparent system in place for ensuring quality diet for the jawans as well as other personnel in the BSF.

5. It is pointed out in this affidavit that the Border Security Force personnel are located at forward locations and that several battalions

are deployed under Army control as well where dry as well as fresh ration is provided by the Army. A jawan of the Border Security Force, by the very nature of the deployment of the Force, serves at the furthestmost borders of the countries. We are informed that this includes ridge areas at high altitudes which may be above 9000 feet. Because of this reason, they remain cut off from the other areas during winter seasons. In these areas, rations are required to be stored for several months in advance and sometimes for a period of even six months.

6. The respondents have also explained the manner in which the food is cooked and distributed in the BSF messes under the supervision of a Mess Commander. Such Mess Commander is democratically selected by the troops themselves from amongst the dinning members through monthly Mess Meetings held on the 25th of each month under the supervision of the Company Commander.

7. In such meetings of the troops, views of all available troops are obtained regarding the quality of the food served during previous month. Suggestions and views are also invited for the succeeding month.

8. Additionally, random checking of the cooked food to ensure quality is carried out by the duty subordinate officer and duty supervisory officer.

9. It is pointed out that due records of these meetings and the supervision is maintained in a food checking register. The grievances

and suggestions about the quality of food or any other matter are especially called for during the evening roll call of the troops which are held daily at several establishments/headquarters at a fixed time under the supervision of a gazetted officer/subordinate officer. The report of the evening roll is further conveyed daily to the senior most officer of the headquarter and required action is taken. In the evening roll call, the quality of the food is specifically queried.

10. Periodical supervision of the food supplied from the personnel is also undertaken by the Border Security Force at its higher level. Detailed instructions and menus have been centrally circulated and suggested on periodic basis to all.

11. Before us, such instructions dated 22nd November, 2016 and 11th January, 2017 to all battalions and BSF establishment for taking necessary action have been placed on record.

12. The writ petitioner makes a grievance with regard to the non-availability of a grievance redressal mechanism for BSF personnel.

13. We are informed that the BSF comprises of a body of personnel of over 2.5 lakhs. It cannot be denied that these personnel are performing critical duties in hard terrain, often in extremely hard conditions, both climatic and otherwise. The best can be expected from such personnel not only if their health and well being is carefully provided for and ensured, but they have a platform to vent their grievances.

14. It also cannot be disputed that jawans of the BSF are providing

yeoman service so far as guarding the extreme borders of the nation. Judicial notice can be taken of the fact that the needs of the jawans could not stop at just food but would encompass all other needs and facilities including health, etc. Redressal of complaints and grievances has to be intrinsic and ingrained in the system for the well being of the jawan expected to give his best in remote, often isolated, positions.

15. The respondents have stated on affidavit that an elaborate grievance redressal mechanism has always been placed in the Force. A dedicated complaint/suggestion box is so conveniently located to enable every BSF personnel to drop his/her grievance therein. The task of dealing with grievances and complaints stands assigned to a senior officer of the rank of a Deputy Inspector General designated as DIG (RR) who has been appointed to perform such duties at the post headquarters in New Delhi.

16. The elaborate Instructions/Standard Operating Procedure (SOP) regarding the redressal system in the BSF was issued on 4th July, 2014. The latest Instructions/SOP dated 12th April, 2016 has been placed before us. As per these instructions, an individual complaint is required to be considered and decision conveyed to the complainant on priority basis within a maximum period of 60 days.

17. The affidavit also discloses availability of a Toll Free Number 1800113455 which was installed about 3 years back at the force Headquarters, New Delhi. All reporting from this telephone number

is put up strictly to the competent authority.

18. BSF also had recently activated an online recording of grievances helpline where all ranks can get their complaint registered even without disclosing their identity. The decision on such grievance is also communicated to the concerned on his Intranet Prahari Project profile.

19. We are informed that, to further maintain communication and to mitigate grievances, the Director General of the Border Security Force regularly communicates with the troops up to the BOP level through Sainik Sammelans during his visits to the field formations. Additionally, since 25th of February, 2016, Director General, BSF has started addressing the troops directly on television through Bhaskaracharya Institute for Space Application and Geo-Informatics (BISAG).

20. Can it be doubted or questioned that the respondents are not aware of their responsibility to ensure nutrition of good quality to their troops or that they do not have mechanisms in place to do so or to ensure the same? The answer has to be in the negative. Given the systems which the respondents have stated as being in place, it would appear that every effort is being made to ensure that the needs of jawans are fully cared for. It is manifest that the complaint of the petitioner in the writ petition to the effect that no grievance redressal mechanism was in place or was available to the jawan or the personnel of the BSF have no platform for venting their grievances is

not correct.

21. This writ petition makes sweeping and general allegations premised on an alleged complaint of a burnt *parantha* which may have been manually cooked on a griddle (*tawa* or *tandoor*). No cook would deliberately burn them for serving to the consumer, who in the present case, are the jawans of the Border Security Force.

22. We find that the petitioner has made exaggerated references to the video uploaded by the BSF jawan complaining about the quality of the food provided to the BSF jawan based on the imagery of food on the said video and allegations made by the concerned jawan in the video. Unfortunately, the writ petition has been filed without making any effort at all to verify the facts or to conduct research with regard to the factual matrix or the systems which are in place. The petitioner deserves to have conducted a more intense examination of the grievances made by the Jawan on the video before having hastily filed the present writ petition making the complaint which has been made.

23. Mr. Sanjay Jain, Id. ASG would contend that in fact the writ petition makes wild allegations with regard to the treatment met out to the jawans. A perusal of the writ petition and the counter affidavit would show that there is substance in the submissions made by the Id. ASG inasmuch as vague, general and sweeping factual allegations of serious nature have been made without any specific details.

24. The BSF is critically needed for ensuring the safety and securing the borders of our nation. The petitioner has unfortunately,

completely lost sight of the fact that the nature of the allegations could have serious consequences. They could compromise State security, lower the morale of the jawans, raise extreme worry and anxiety to the family members of the jawans regarding their well being who are at hard and distant places. These allegations would certainly discourage recruitment to the force.

25. The Forces maintain secrecy of location not only for the security of the personnel, but also to most effectively discharge critical defence functions. The recording of videos at forward locations, may unintentionally reveal critical strategic inputs like location of the post, scale of the defence and the identities of the personnel, thereby endangering not only the security of the concerned personnel, but also of the nation.

26. The personnel of the Border Security Force, which include officers as well as jawans, devoted to the service of the nation who perform the ultimate sacrifice of even laying down their lives in the defence of the nation, deserve the best treatment. No compromise in this regard can be countenanced. Food, to say the least, is the most basic requirement of the members of the Force.

27. The modalities set out in the counter affidavit do suggest that the respondents have made every effort to ensure provision of good nourishment to the Forces. Perhaps, the food which was served at a particular location or on a particular date, needed more attention. But, we are confident that the respondents would address all concerns of

the jawans. While food can be the cause for many ailments, as at present, it is certainly the panacea for what has been made out to be a major grievance.

28. Mr. Sanjay Jain, Id. ASG would submit that in fact actions as filing such unsubstantiated writ petitions have the effect of unleashing a disinformation campaign which is picked up by the social, electronic and print media compromising the interest of the nation, the jawan's families and of the BSF. The counter affidavit filed by the respondents discloses the inquiry undertaken to ascertain the truth in the allegations made by the jawan in the video on 9th of January 2017. Inasmuch as the respondents have promptly reacted thereto and the matter is being examined by the BSF, we are not expressing any opinion on the correctness of the allegations or on the submissions of the respondents that the action of the jawan at the time of posting the video tantamounts to an act of indiscipline.

This aspect of the matter does not detain us any longer.

29. The respondents have also made a complaint that the said jawan had indulged in several other acts of indiscipline. Inasmuch as these acts are the subject matter of consideration by the respondents in accordance with the provisions of the Border Security Force Act, we are not required to go into the matter. We refrain from commenting thereon.

30. We note that it is the responsibility of the petitioner, who is neither present nor represented before us today, to make out his case,

when the writ petition is taken up for consideration. It is having regard to the nature of the complaint made in the writ petition that, though we could have dismissed the writ petition for want of appearance and non-prosecution, we have carefully examined the counter affidavit filed by the respondents vis-a-vis the allegations made in the writ petition to ensure whether there was truth in the assertions and recorded the above observations.

31. For all the above reasons, this writ petition is dismissed.

ACTING CHIEF JUSTICE

ANU MALHOTRA, J

MAY 05, 2017

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