

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

Case No.:- WP(C) No. 3204/2023
CM No. 7756/2023

Milap Singh

....Petitioner(s)/Appellant(s)

Through :- Mr. Farhan Mirza, Advocate.

V/s

U.T. of J&K and Ors.

....Respondent(s)

Through :- Ms. Aparna Gupta, Advocate vice
Mrs. Monika Kohli, Sr. AAG.

Coram: HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE

ORDER
26.12.2023

1. Through the medium of instant petition, the petitioner has sought the following reliefs:-

- “i. Certiorari seeking quashment of the Order No. Estt./A/DC/2022/72518-21 dated 23.12.2022 issued by the respondent No. 2, whereby respondent No. 3 has been directed to collect the arms and ammunition issued to the Village Defence Members including the petitioner herein;**
- ii. Mandamus commanding respondents to transfer the weapon i.e. 303 Gun issued to the petitioner in favour of his son namely Ajay Singh, in view of the on-going threat perception and turmoil in the locality;**
- iii. Any other writ, order or direction which this Hon'ble Court deems fit and proper may kindly be passed in favour of the petitioner as against the respondents.”**

2. Briefly stated the facts of the case are that the petitioner is aggrieved of the Order No. Estt./A/DC/2022/72518-21 dated 23.12.2022 issued by the respondent No. 2, whereby respondent No. 3 has been directed to collect the arms and ammunition issued to the Village Defence Members including the petitioner. It is stated that the petitioner, who was unemployed at that point of time, was

nominated as member of village Defence Committee, Champari, Tehsil Chenani District Udhampur in view of the militants activities and attacks on the innocent public by the militants in Jammu Division including District Udhampur. Consequent upon the declaration of the petitioner as Member of the Village Defence committee of the village, the police had handed over weapon, i.e., Gun alongwith rounds to the VDC members including the petitioner herein. It is also stated that the petitioner came to be selected as Assistant in the Corporation Bank at Udhampur and after his appointment, he was in possession of the weapon like other VDC Members, who though were employed in government, semi-government organization or some private firm etc.

3. Learned counsel for the petitioner submits that vide order dated 23.12.2022 issued by the respondent No. 2, respondent No. 3 has been directed to collect the arms and ammunition from the Village Defence committee Members, who have been working in other departments and the name of the petitioner figures at Serial No. 3 in the said order. Learned counsel also submits that the petitioner made a representation dated 18.12.2023 to the respondent No. 2 with regard to transfer the weapon, i.e., Gun 303 in favour of his son, namely, Ajay Singh, as he is unemployed and can take care of the Society/public in view of ongoing threats/militant activities in the locality. It is also stated that the son of the petitioner works on daily rated basis to run his livelihood and fulfill the necessities of himself and is not working in any Government Organization/ Department or in any other private firm. He further submits that the respondents have neither decided the representation of the petitioner nor have transferred the weapon i.e. 303 Gun in favour of his son, namely, Ajay Singh.

4. The petitioner has challenged aforesaid impugned order issued by the respondent No. 2 amongst others on the following grounds:-

- i. That the order impugned is bad in law and against the facts of the case, as such, the same deserves to be set aside;
- ii. That the threat perception and militants activities in the Jammu Division still exist and to continue with Village Defence Committees is the need of the hour to counter any threat, suspicious movements in the locality, as such, the respondents are required to be directed to transfer the weapon 303 Gun in favour of the son namely Ajay Singh who is possessing a good physique and is an unemployed youth;
- iii. That suspicious elements still active and keep on moving in the Districts of Rajouri, Doda, Reasi, Poonch, Udhampur and to counter any such untoward happenings in the locality and to safeguard the innocent people from the militant attacks, the strength / number of Village Defence Members in the Village Defence Committee is necessitated and on this ground also, the respondents may kindly be directed to transfer the 303 Gun in favour of the son of the petitioner;
- iv. That the action of the respondents in collecting the weapon from the existing VDC Members who have been working in other departments, is required to be swapped with by nominating the new VDC Members to keep the strength/number intact. Thus, the respondents are under obligation to transfer the 303 Gun allotted to the petitioner, in favour of the son of the petitioner;
- v. That the respondents have been transferring the weapons in similar cases in favour of the kith and kins of the VDC Members who either are working in some department or have crossed the age bar to cater to the requirement of VDC members in a Village Defence Committee. On this score also, the petitioner deserves similar treatment by the respondents.

5. Learned counsel for the petitioner submits that the petitioner would be satisfied that in case, the instant writ petition is disposed of, at this stage, by directing the respondents to treat the instant writ petition as representation and to accord consideration to the same within some time frame. Learned counsel for the

respondents is not averse to the said proposition in case, the same is decided strictly under rules and as per law.

6. Issue notice to the respondents, which is waived by Ms. Aparana Gupta, Advocate appearing vice Mrs. Monika Kohli, Sr. AAG.

7. With the consent of learned counsel for the parties and also keeping in view the facts and circumstances of the case, the instant petition is disposed of with a direction to the respondents to treat the instant writ petition as representation and to accord consideration to the same strictly under rules and as per law within a period of six weeks from the date copy of writ petition alongwith annexures are made available to the respondent No. 2.

8. *Disposed of* alongwith connected application.

(WASIM SADIQ NARGAL)
JUDGE

Jammu:
26.12.2023
Mihul

