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

+ **W.P.(CRL) 452/2017**

SHARMILA DEVI Petitioner

Through Mr.A. Tewari, Adv.

versus

UNION OF INDIA & ORS Respondents

Through Mr.Gaurang Kanth, Adv. for UOI.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE VINOD GOEL

ORDER

% **15.02.2017**

This is a petition under Article 226 of the Constitution of India filed by the petitioner, wife of Constable Tej Bahadur, seeking a writ of habeas corpus.

On the last date of hearing, the learned Additional Solicitor General appeared on instructions upon advance copy having been supplied to the respondents and the following order was passed:

“The present petition has been instituted under Article 226 of the Constitution of India seeking a writ of *habeas corpus*. A direction is sought by the petitioner, who is the wife of Constable Tej Bahadur, for his production. The petitioner claims that after a video was uploaded by Constable Tej Bahadur on 09.01.2017, her husband is missing, his whereabouts are unknown, she apprehends that he is being illegally detained. Learned counsel for the petitioner submits that as per the petitioner, her husband is not allowed to talk to his family freely and phone calls made are from a mobile

phone of another officer, who remains present at the time of the conversation. It is also alleged that his mobile phone has been seized.

Mr. Sanjay Jain, learned Additional Solicitor General, on instructions, has entered appearance. He submits that the apprehensions of the petitioner are baseless and unfounded, which are evident from a copy of the call details which has been handed over in Court, which show that Tej Bahadur has spoken to his family on 26th, 27th, 28th, 29th, 30th January and 1st, 2nd, 3rd, 4th February upto 7th February, 2017. It is further submitted that by an order dated 07.02.2017, Constable Tej Bahadur has been attached to the 80 Bn BSF with immediate effect on administrative ground. A copy of this order has been handed over in Court. Additionally, Mr. Jain, the learned Additional Solicitor General submits that the husband of the petitioner has not been arrested nor any disciplinary proceedings have been initiated. Mr. Jain also submits that an alternative mobile phone has been provided to him. Mr. Jain submits that the respondent would have no objection in case the wife of the petitioner wishes to meet her husband at 80 Bn BSF, Bn. HQ at Painthee, Near Samba Railway Station, Distt. Sambha-184121 (Jammu) and stay for two nights. He further submits that the wife of Constable Tej Bahadur should approach the Commandant, 80 Bn BSF, who would be informed in advance. The mobile phone and address has been handed over in Court.”

We are informed by the learned counsel for the petitioner that the petitioner has been able to meet her husband and the meeting was satisfactory. Learned counsel submits that Constable Tej Bahadur should be permitted to speak to his family members without the presence of an officer.

Learned counsel for the respondent/UOI submits that the mobile phone of Constable Tej Bahadur was taken into custody. However as per his instructions Constable Tej Bahadur has purchased a new mobile phone and there is no restriction on him from talking to his family.

Learned counsel for the petitioner at this stage submits that no further orders are required to be passed in this writ petition. The same is not pressed.

The petition is disposed of accordingly.

G.S.SISTANI, J.

VINOD GOEL, J.

FEBRUARY 15, 2017/jitender