

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**INTERIM APPLICATION NO. 1 OF 2019
IN
WRIT PETITION NO. 2943 OF 2019**

Ministry of Defence, Union of India and Ors.	}	
in the matter of		
Lt. Col Dharamvir Singh and Anr.	}	Applicants Petitioners
versus		
Ministry of Defence, Union of India and Ors.	}	Respondents

Mr.Anil Singh-Additional Solicitor General with
Mr.A.A.Garge, Mr.Neel Helekar, Mr.R.R.Shetty,
Mr.Carina Xavier, Mr.Mayur Jaisingh for the
applicants.

Mr.Anubha Rastogi with Ms.Shreya Kanaujiya for the
respondents.

MAJ.Jyoti Sharma and BRIG. Sandeep Kumar
present.

**CORAM :- S. C. DHARMADHIKARI &
G. S. PATEL, JJ.**

DATED :- NOVEMBER 7, 2019

P.C. :-

1. We have heard both sides on the application made by the
respondents to the main writ petition.

2. The learned Additional Solicitor General says that there is
court martial pending against the petitioner and the proceedings

are scheduled on 15th November, 2019. Therefore, the order which disposes of the writ petition be modified as the petitioner has been granted exemption from attendance at the court martial for a period of eight weeks from 17th October, 2019. The result would be that he will not attend the court martial proceedings scheduled on 15th November, 2019. He will take advantage of this leniency shown by this court, particularly clause (b) of the operative order in para 5. In these circumstances, the said order be modified. It should be modified all the more because the representation of the petitioner is duly considered by the authorities, but not accepted. Though there was an outer limit to consider it, still, given the urgency of the situation and particularly maintenance of discipline in the Army, the said representation is disposed of before the date stipulated in this court's order.

3. The learned advocate appearing for the original petitioner, apart from denying all the allegations in the affidavit in support of the interim application, would submit that the petitioner's health condition is serious. The petitioner has been operated and he has only one functional kidney. Even if the court martial proceedings have been shifted to Dinjan in the State of Assam, still, the travel would require him to take a flight from Mumbai to Dinjan and thereafter a car travel. She would, therefore, submit that the

petitioner seeks an extension of a week to attend the court martial proceedings and at his request, the proceedings be scheduled on 21st November, 2019.

4. After hearing both sides, we are of the opinion that the order passed by this court directed consideration of the representation and until that was considered, the petitioner was protected by granting an exemption from attendance at the court martial proceedings. Now that the representation is disposed of and the court martial proceedings are scheduled on 15th November, 2019, we direct that the petitioner shall report for the court martial proceedings scheduled on 21st November, 2019 and at the venue and time stipulated in the communication in that behalf. At our request, the learned Additional Solicitor General has taken instructions and instead of 15th November, 2019, the court martial proceedings would now be held on 21st November, 2019. Our order, particularly para 5(b) and (d) shall stand modified accordingly.

5. With the aforesaid directions, the interim application is disposed of.

(G.S.PATEL, J.)

(S.C.DHARMADHIKARI, J.)