

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

211

CWP-25765-2017

Date of Decision: 25.01.2019

Sarabjit Kaur and another

--Petitioners

Versus

Union of India and others

--Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr.Gaurav Sharma, Advocate
for the petitioners.

Mr. Sunil Kumar Sharma, Sr. Panel Counsel
for respondents No.1 to 3.

Ms. Hittan Nehra, Addl.A.G., Punjab.

TEJINDER SINGH DHINDSA.J.

Petitioners, who are two in number, are stated to be residents of village Gujjal, Tehsil Patti, District Tarn Taran.

The short grievance raised in the instant petition is for issuance of directions to the respondents/authorities for permitting them to cultivate certain land which is in the ownership of their husbands as well as land taken on lease from the villagers and which is situated beyond the wire fencing of the Indo-Pak Border.

Earlier in point of time, the present petitioners along with one Balwant Singh had approached this Court by filing CWP No.17298 of 2015 and which has been disposed of on 29.03.2016 in the following terms:-

“This petition is filed for a direction to respondent Nos. 2 to 4 to allow the petitioners to cultivate their land as well as the land taken on lease from the villagers which is situated beyond the wire fencing of the border.

Petitioner Nos. 1 and 2 are the residents of village Gajjal, Police Station Khemkaran, Tehsil Patti, District Taran Taran and petitioner No.3 is resident of village Rattoke, Police Station Khemkaran, Tehsil Patti, District Taran Taran. It is averred that there is land situated beyond the wire fencing at India-Pakistan border in the area of village

Gajjal at gate No.172/1 and in the village Rattoke at gate No. 166/M and they have been issued gate passes by the Border Security Force.

The petitioners' agitation is that they have not been allowed to cultivate their land and also the land they have taken on lease from the villagers which is within the border of India- Pakistan.

After notice, reply has been filed on behalf of respondent Nos. 1 to 3 in which it is averred that petitioner Nos. 1 and 2 have not yet made any application for grant of gate passes. Insofar as petitioner No.3 is concerned, it is submitted that gate pass/ certificate issued to him has already been expired on 31.1.2015 and so far, he has not applied for renewal of the said pass. It is submitted that if the petitioners apply for gate pass/ I Card, the same shall be considered by the B.S.F authority in accordance with law.

After hearing learned counsel for the parties and keeping in view the facts and circumstances of the case, this petition is disposed of with liberty to the petitioners to apply for gate pass/ I Card to respondent Nos. 2 and 3 who would decide the same as early as possible, preferably within a period of one month from the date of filing of the application.”

Concededly the uncontroverted position of fact is that for cultivation of land beyond the wire fencing on the Indo-Pak Border, the farmer concerned or the lessee has to obtain a gate pass/certificate from the concerned BSF Authority.

Concededly, the petitioners have till date not applied for such gate pass. Under such circumstances, the prayer made in the instant petition cannot be accepted.

Writ petition is disposed of in terms of granting liberty to the petitioners to approach respondent No.3 i.e. the Commandant, 77 Battalion, BSF, District Tarn Taran for issuance of a gate pass/certificate. In the eventuality of the petitioners herein approaching respondent No.3 for such purpose, the application so moved would be considered expeditiously and if the petitioners are found to be having clean antecedents, the gate pass would be duly issued within a period of four weeks thereafter.

Writ petition is disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

25.01.2019

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |