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

Date of Decision: 06.12.2019

+ **W.P.(C) 12092/2018**

COURT ON ITS OWN MOTION

..... Petitioner

Through: None.

Versus

GOVT OF NCT OF DELHI & ORS.

..... Respondents

Through: Mr.Rahul Mehra, Standing Counsel
(Crl) with Mr.Chaitanya Gosain, Adv.,
Mr.Prashant Verma, OL, Legal & Mr.Amresh
Goyal, AS, Legal.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE C.HARI SHANKAR

JUDGMENT

: **D.N. PATEL, Chief Justice** (*Oral*)

1. This writ petition has been initiated by this Court on its own motion on the basis of the letter dated 16.10.2017.
2. Going by the said letter, there are allegations about gross violations of human rights by Tamil Nadu Special Police (TSP) in high security Ward Nos.8 & 9 of Tihar Jail, Delhi.
3. Having heard the learned counsel for the respondents and looking to the status report dated 07.01.2019 filed by the respondents, an inspection was carried out by the Jail Inspecting Judge and records from the Jail Superintendent were called for.
4. The Superintendent of the Jail submitted his report wherein it was

mentioned that a high level inquiry was conducted by the Deputy Inspector General (Prisons). The details of the same have been mentioned in paragraphs 4 & 5 of the status report dated 07.01.2019 which read as under:-

“4. That as per the report furnished by the Superintendent, Central Jail No.8/9, Tihar, a High Level Inquiry was conducted into the alleged matter of violation of human rights by the TSP. Further, report was also sought from the Commandant, TSP, VIII Bn. Through the report, the Hon'ble Court of Sh. Manish Yaduvanshi, ASJ, was apprised of the factual position to the effect that during the surprise search conducted by the Tamil Nadu Special Police officials on the direction of the Deputy Superintendent and under the supervision of Assistant Superintendent Jail, in the Ward No.5 (High Security Ward) of Central Jail No.8/9, Tihar, on 12.10.2017 at 1045 hrs. three numbers of broken tennis racket, some loose wire, two rusted iron patti (all prohibited items) were recovered from Barrack No.A-3 of Ward No.5 and the inmates namely Md. Hussain s/o Md. Zamil, Asadullah Akhtar s/o Javed Akhtar, Kafil Ahmed s/o Ayub Ansari, Najamullah s/o Sehful, Nafis Khan s/o Afsar Khan, Shafaqat s/o Murtaza All who were lodged in the said Barrack started misbehaving and abused the searching team and also manhandled/assaulted TSP personnel namely M. Muthukumar PC-3028, P. Sakthivel PC-3028, A. Velmurgan PC-2994 and K. Vibin PC-3000, for the reason of recovery of prohibited articles. Alarm was raised and minimum force was used to control the situation. The accused persons who received minor injuries were immediately provided adequate medical treatment from the Jail Dispensary. SHO PS- Hari Nagar was also informed for initiating necessary action as per law. Punishments were recorded against the accused persons. As per report of the Commandant, TSP, 'the

allegations leveled by the petitioners were false, baseless, concocted and motivated, hence denied. SI Peter Lawrence performed his duties promptly and sincerely. TSP staff had never damaged inherent human dignity and never hurt religious feelings or sentiments of Muslim inmates as alleged in the petition. Searching of inmates is carried out under the Standard Operating Procedures (SOP) and utmost care is taken with regard to human dignity.'

5. That vide order dated 18.12.2017 the Hon'ble Court of Sh. Manish Yaduvanshi, ASJ-05 (West), Tis Hazari Courts, Delhi, observed that further action would not be required until the Ld. Visiting Judge is further, approached. Thus, the Hon'ble Court was pleased to file the petition of the High Security Ward inmates intimating that the allegations have been found to be false. The copy of the said order was duly served upon all the said inmates till date nothing as such in the aforesaid matter has been received from the concerned inmates to the Prison Administration/Jail Visiting Judge.

Copy of the order dated 18.12.2017 passed by the Jail Visiting Judge is marked and annexed as Annexure-A."

5. In view of the aforesaid report submitted by the Superintendent of Jail after conducting the high level inquiry and looking at the fact that the surprise search was carried out by the Tamil Nadu Special Force, as per the standard operating procedure in high security ward at Tihar Jail, it appears that the use of force was to control the reaction of the jail inmates to seizure of prohibited articles. It is pertinent to mention that during this process, some jail inmates were injured, however, necessary medical treatments were provided to them immediately thereafter. Looking to the said inquiry, it appears that nothing further is required to be done and no further orders are

required to be passed by this Court as whenever such types of surprise searches are carried out in jail wards and in case any prohibited item or items are found by the Police, such types of reactions are expected.

6. We are satisfied by the work done by the respondents in accordance with law. Hence, we see no reason to further monitor the case and the same is disposed of.

7. Nonetheless, we hereby direct the respondents that whenever any such surprise search is carried out in the wards of the jails including high security wards, they shall strictly follow the Jail Prison Rules, 2018 and the standard operating procedure or the circulars issued by the respondents. It is the duty of the respondents that the rights of the jail inmates are not to be violated much less their human rights.

8. With these observations, this writ petition is hereby disposed of.

CHIEF JUSTICE

C.HARI SHANKAR, J.

DECEMBER 06, 2019

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