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

+ W.P.(C) 6373/2020 & CM APPL. 22556/2020 (for releasing the petitioner or suspending the sentence till the pendency of the present petition).

CHANDRA PAL

..... Petitioner

Through: Mr. Vishwendra Verma, Adv.

Versus

BORDER SECURITY FORCE

..... Respondent

Through: Mr. Sanjeev Sabharwal, CGSC.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

HON'BLE MS. JUSTICE ASHA MENON

ORDER

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14.09.2020

[VIA VIDEO CONFERENCING]

1. The petitioner, a Constable (Driver) with the respondent Border Security Force (BSF) and having been punished with seven years rigorous imprisonment and dismissal from service, has filed this petition with the grievance that the statutory appeal preferred by him on 30th June, 2020 to the Director General, BSF, inspite of repeated representations, has not been taken up even for first hearing as yet. It is stated that the appeal is accompanied with an application for suspension of sentence but owing to the appeal being not taken up for hearing till now, the petitioner has been in imprisonment now for over 20 months. Various other errors are also urged in the punishment meted out and in the procedure followed therefor.

2. On enquiry it is stated that the petitioner has now been transferred to civil imprisonment, in Siliguri, West Bengal.
3. Though the counsel for the respondent BSF appears on advance notice but states that the files will have to be requisitioned from Jammu & Kashmir and he has no instructions till now.
4. Considering the nature of the controversy and especially considering that even the challenges on merits made in this petition are subject matter of statutory appeal, we are of the view that this is not a matter requiring counter affidavit and the only direction which is to be issued is for expeditious taking up of the appeal and the application for interim relief/suspension of sentence stated to be filed therewith.
5. We accordingly dispose of this petition directing the Director General, BSF, who is stated to be the Appellate Authority, to take up the appeal as well as the application for interim relief/suspension of sentence filed therewith, for hearing, within two weeks of today and to pass orders, at least on the application for interim relief/suspension of sentence, as may be deemed fit, and to deliver a copy of the said order to the counsel for the petitioner.
6. The petition is disposed of.

RAJIV SAHAI ENDLAW, J

ASHA MENON, J

SEPTEMBER 14, 2020

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