

\$~27

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of decision: 30th January, 2020
+ **W.P.(C) 2873/2012 and CM APPL. 11982/2016**
EHTESHAM QUTUBUDDIN SIDDIQUI Petitioner
Through: Mr. Sumeet Pushkarna, Advocate (M:
9811042847).
versus

STATE Respondent
Through: Mr. Vikas Mahajan, CGSC with Mr.
Aakash Varma and Mr. Prajesh V.S.,
Advocates for R-1, UOI (M:
9810196050).
Mr. Sunil Narula and Mr. Deepika
Kumari, Advocates for R-2 (M:
9811073767).
Mr. Shadan Farasat and Mr. Bharat
Gupta, Advocate for GNCTD (M:
9013534938).

CORAM:
JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. The petitioner had written a letter dated 27th April 2012 to the Hon'ble Chief Justice of this Court invoking the writ jurisdiction under Art. 226 of the Constitution of India. The letter stated that the Petitioner had sought under the RTI Act, 2005, from the Central Council for Research in Homeopathy ('Homeopathy Council'), either hard copies of homeopathy books or soft copies thereof. The said request was rejected by the CPIO on two grounds – i.e., in respect of hard copies, on the ground that the same could not be supplied free of cost, and for electronic copies the request was rejected on the ground that there would be violation of the Copyright Act.

Both the first and the second appellate authority had concurred with the CPIO of the Homeopathy Council. Hence the letter dated 27th April 2012.

2. In the letter, the Petitioner stated that he was a person from below the poverty line and was in confinement in jail. He could thus not afford to pay for the books. The letter was considered as a writ petition and on 15th May 2012, since the Petitioner was in jail, an Amicus was appointed in the matter. Thereafter the UOI and the Homeopathy Council were impleaded.

3. Today, Id. counsel, Mr. Sunil Narula submits that the Council has no objection in supplying the homeopathy books free of cost to the Central Jail at Nagpur in order to enable inmates to borrow and use the same irrespective of whether they are under-trials or they are serving any sentence.

4. Mr. Shadan Farasat, Id. counsel submits that the Govt. of NCT Delhi had already contacted the Jail Superintendent of Arthur Road Jail and the Government is willing to facilitate the transmission of the books after procuring the same from the Homeopathy Council to the Central Jail at Nagpur. He refers to the letter dated 14th May, 2018 sent by the superintendent of the said jail. The relevant extract of the said letter reads as under:

“With reference to above I have submits that death Sentence Convicted Prisoner No.9168 Ehtesham Qutubuddin Siddiqui, Nagpur Central Prison has filed Civil Writ Petition No. 2873/2012 in the High Court Delhi. In response of letter dated 03.05.2018, the Superintendent Nagpur Central Prison respectfully begs to submit as under.

It is submitted that the Petitioner has been Convicted by the learned Spl. Judge for MCOCA and NIA Cases Gr. Bombay Court on 30.09.2015, the Conviction Details are as under ...

...

2. It is Submitted that, the according to Maharashtra Prison Manual 1979 CHAPTER XLII, Rule No.11(i) deals A convict may be allowed the following facilities at the discretion of the superintendent, namely:- (a) religious books :(b) religious pictures; (c) rosary and essential religious emblems subject to security requirements:(d) newspapers, books. The copy of said rule annexed here with and marked as Annexure R-I.

3. It is submitted that, the as per Rule no 32 deals If any prisoner wants any book it can be permitted to purchase at his own expenses from his PPC (Personal Private Cash), and book can be also permitted or given through interview if it brought by relatives of prisoners. The copy of said rule annexed here with and marked as Annexure R-II.”

5. Thus, from the jail’s letter it is clear that according to the Maharashtra Prison Manual 1979, Chapter XLII, Rule No. 11(i), a convict may be allowed the facilities of newspapers and books, at the discretion of the Superintendent of the Jail. The said Rule reads:

“11(i) A convict may be allowed the following facilities at the discretion of the Superintendent, namely:- (a) religious books; (b) religious pictures; (c) rosary and essential religious emblems subject to security requirements; (d) newspapers, books.”

6. It is accordingly directed that the 45 homeopathy books be supplied by the Homeopathy Council to the Ld. Counsel for NCT of Delhi, within a period of two weeks i.e., by 15th February 2020. Steps shall then be taken by 15th March 2020 for transmission of the said books to the Superintendent, Nagpur Central Jail for being kept in the library of the said jail. The books would be the property of the Jail and shall be made available to the inmates

in the said jail, as per the prevalent Rules and Manual of the said Jail.

7. The writ petition is disposed of in the above terms.

PRATHIBA M. SINGH
JUDGE

JANUARY 30, 2020
MR

