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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRWP-9175-2021 (O&M)
Date of decision: 17.11.2021

Mohd. Arif

Petitioner

Versus

State of Haryana and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Arjun Sheoran, Advocate for the petitioner.

Ms. Dimple Jain, Assistant Advocate General, Haryana.

AVNEESH JHINGAN, J (Oral):

[1] This writ petition in the nature of *Habeas Corpus* was filed for release of detenu Sakir-brother of the petitioner.

[2] Due to an untoward incident which happened with Warrant Officer appointed in this writ petition, following orders were passed on 27th September, 2021 and 28th September, 2021:-

Order dated 27th September, 2021:-

"Due to COVID-19 situation, the Court is convened through video conference.

This writ petition in the nature of Habeas Corpus was filed for release of detenu Sakir-brother of the petitioner.

On 22nd September, 2021, a Warrant Officer was appointed who has submitted his report dated 23rd

September, 2021. The relevant portion of the report is reproduced below:-

“.....Thereafter the undersigned alongwith Mr. Sarfaraj Anjum Mor, Advocate reached at Panipat at about 10:00 a.m. on 23.09.2021. The petitioner Mohd. Arif also met the undersigned at Panipat. As pointed out by the petitioner, the undersigned along with petitioner and his advocate reached at CIA-II, Panipat at about 10:50 a.m. On reaching at the entry gate of CIA-II Panipat, two persons in civil dress who were standing near the entry gate met us there, One of them asked the identity of the undersigned by saying that they are employees of CIA-II Panipat. While the undersigned disclosing him the identity, the another person went inside the CIA-II Panipat and bolted the entry gate from inside. Then immediately I rushed to the entry gate of CIA-II, Panipat and called the Santry in loud voice to open the entry gate and also knocked the doors of entry gate for about 10/15 minutes. Then after 10/15 minutes, the Santry Sh. Krishan Kumar No. 1170 came at the entry gate and asked the identity of the undersigned. On disclosing him the identity by the undersigned, he opened the entry gate of the said CIA-II, Panipat. The undersigned asked him the reason for not opening the entry gate at once and also asked the identity of the person who bolted the entry gate from inside, but he did not give any reply.....”

Learned counsel for the applicant/ petitioner has filed an application placing on record a Compact Disc (C.D.) in which it is alleged that detenu was taken away from the office of CIA.

Notice in the application was issued to the non-applicant/State on 24th September, 2021.

Learned State counsel submits that copy of application has not been supplied to her.

Learned counsel for the applicant/ petitioner

undertakes to supply the same to learned State counsel during the course of the day.

List on 28th September, 2021.

The Warrant Officer shall also remain present during the hearing through video conference.”

Order dated 28th September, 2021:-

“Due to COVID-19 situation, the Court is convened through video conference.

Learned State counsel seeks time to go through the contents of the C.D. She makes an attempt to justify the act and conduct of officials of CIA with the Warrant Officer appointed by this Court by relying upon the entries of Visitor's Register.

Learned counsel for the petitioner submits that after hearing of this Court on 27th September, 2021, the detenu has come back.

In compliance of order dated 27th September, 2021, the Warrant Officer who has submitted his report, is present through video conference. He submits that he is in a position to identify two persons who stopped him at the gate of CIA office.

Learned State counsel seeks time to file an affidavit of some senior officer of CIA.

List on 8th October, 2021.”

[3] An attempt was made by the State to justify the conduct by filing an affidavit on 8th October, 2021. Learned State counsel on realizing the mistake, sought permission to withdraw the same with liberty to file afresh. On 29th October, 2021, opportunity was granted to

learned State counsel to file the affidavit.

[4] Today, Mr. Shashank Kumar Sawan, I.P.S., Superintendent of Police, Panipat is present in the Court and assures the Court that such incident will not be allowed to be repeated. He further submits that regular departmental inquiry is ordered against Constable Krishan Kumar, Belt No. 1170/PPT. He further submits that if during the inquiry, some other official is found at fault, appropriate action will be taken. He tenders unconditional apology.

[5] The apology is accepted.

[6] Since the detenu has reached home, no further orders are called for.

[7] The petition is disposed of.

[8] There is no doubt that departmental inquiry would be taken to its logical conclusion by keeping into consideration the video recording handed over to the State.

[9] Needless to say that detenu and petitioner would be at liberty to avail remedies in accordance with law for redressal of surviving grievance, if any.

[10] Since the writ petition is disposed of, the pending application, if any, also stands disposed of.

[AVNEESH JHINGAN]
JUDGE

17th November, 2021

pankaj baweja

1. Whether speaking/ reasoned	:	Yes /No
2. Whether reportable	:	Yes /No