

\$~Suppl.-34

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

+ W.P. (C) 2433/2021, CM APPLs. 7077-78/2021

ARUP DAS MOHANTA .....Petitioner

Through: Mr. Brajesh Pandey, Advocate.

Versus

UNION OF INDIA AND ORS .....Respondents

Through: Mr. Rishabh Sahu, Advocate and  
Mr. Sameer Sinha, Advocate.

% Date of Decision: 22<sup>nd</sup> February, 2021

**CORAM:**

**HON'BLE MR. JUSTICE MANMOHAN**

**HON'BLE MS. JUSTICE ASHA MENON**

**J U D G M E N T**

**MANMOHAN, J (Oral):**

1. The petition has been heard by way of video conferencing.
2. Present writ petition has been filed challenging the charge sheet dated 09<sup>th</sup> September, 2020 issued by the Respondents on the ground that the impugned proceedings have been started by the Respondent when another matter/proceeding is already pending before this Court in Writ Petition being WP(C) No.8174 of 2020.
3. Learned Counsel for the Petitioner submits that the Respondents have issued the impugned charge sheet as they are biased against the Petitioner and the Respondents have already punished the Petitioner with 89 days R.I. against which Petitioner has filed the Writ Petition No.8174

of 2020 and matter is still pending. He further submits that the Petitioner is being targeted by higher officers in the name of discipline.

4. Having perused the paper book, this Court finds that the allegations stated in the charge sheet at page 25 make out a case of violation of the BSF Act. There is also no legal bar to the filing of the charge sheet.

5. Though the allegation of bias has been made in the writ petition, yet no one has been arrayed either by name or in personal capacity. Consequently, the said allegation cannot be taken into account.

6. Pendency of W.P.(C) 8174/2020 is immaterial as it deals with an entirely different legal issue, namely, conflict between regulation 392(1) and Section 153 of Army Act i.e. whether a person can be arrested before the sentence imposed by SGCM has been confirmed.

7. Accordingly, the present writ petition and applications being bereft of merit are dismissed.

8. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.

**MANMOHAN, J**

**ASHA MENON, J**

**FEBRUARY 22, 2021**  
**AS**