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

+ **W.P.(C) 3226/2021 & CM APPL. 9818/2021**

RAMPYARI KHINCHI Petitioner

Through: **Dr. S.S. Hooda, Advocate**

versus

UNION OF INDIA & ORS. Respondents

Through: **Mr. Jayant Bhatt, Senior Panel
Counsel with Ms. Deepali Suri,
Advocate for R-4, Mr. G.S. Malik, IG
(in-person), Mr. Sahil Sharma, law
officer (BSF), Mr. Hemraj (SPG) and
Mr. Rajeev Kumar, Commandant
(BSF)**

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MS. JUSTICE ASHA MENON

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Date of Decision: 05th April, 2021

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MS. JUSTICE ASHA MENON

J U D G M E N T

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MANMOHAN, J (Oral):

1. Present writ petition had been filed for issuance of directions to the respondents to place on record (in a sealed cover) the SCOI and Additional SCOI proceedings conducted by respondent No.3 and to quash the indecent questions put by respondent No.3 to the petitioner. Petitioner also sought directions to respondent No.5 not to cancel petitioner's candidature for

W.P.(C) 3226/2021

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Special Protection Group ('SPG'). It was further prayed that the transfer order dated 07th August, 2020 issued to the petitioner be modified by deleting the words 'on administrative grounds'.

2. In the writ petition, it has been averred that the respondents had transferred the petitioner from 13 Bn. to 154 Bn. on administrative grounds, i.e. on account of travelling with Sh. Deepak Kandpal (Commandant) from Bhopal to Barmer with three other employees, which was stigmatic in nature and had injured the petitioner's reputation. It was the case of the petitioner that she was being harassed for not making statements against Sh. Deepak Kandpal. It was further averred that the respondents had accessed petitioner's call detail record illegally in violation of petitioner's fundamental rights. It was also stated that questions alleging relationship between the Commandant and the petitioner had been put to the petitioner during the additional staff court of inquiry proceedings. It was also averred that the respondents were not relieving the petitioner from Gandhi Nagar, Gujarat for joining her training to Special Protection Group (SPG), which could result in relegating her to the next training batch causing unnecessary loss to the petitioner.

3. As it was an admitted case of the respondents that the SCOI and additional SCOI proceedings were not against the petitioner but against the Commandant, Shri Deepak Kandpal for not accompanying the convoy, this Court was of the prima facie view that the factum of travelling in Commandant's car along with other employees could not be a reason to impugn the petitioner's character and dignity by way of certain questions when she appeared as a witness especially when the petitioner had never

alleged any misbehavior by the Commandant, Shri Deepak Kandpal. Accordingly, this Court on 10th March, 2021 passed the following order:-

“The petition has been heard by way of video conferencing. If the facts stated in the present writ petition are true and correct, then this Court is of the prima facie view that it does not reflect well on the respondent-BSF. However, the law officer, BSF prays that no order be passed today as he wants some time to obtain instructions. List on 15th March, 2021. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.”

4. Subsequently, on 15th March, 2021, this Court passed the following order:-

“Today, learned counsel for respondents has handed over testimony of the petitioner before the Deputy Inspector General, Presiding Officer. He states that the petitioner, in pursuance to the Movement Order dated 11th March, 2021, i.e. after the last date of hearing, has joined the SPG. The Movement Order is taken on record.

We are prima facie of the view that with the production of testimony of the petitioner before the Deputy Inspector General, Presiding Officer, the arguments advanced by the petitioner have only been strengthened

Since the present petition raises the issue of gender bias and the treatment of women officers in the Forces, we direct the present writ petition to be placed before the Director General, BSF, for consideration. Before passing any order/direction, Director General, BSF, shall consider the questions put to the petitioner by the Presiding officer as well as the order dated 12th January, 2021 passed by the Inspector General, FTR HQ BSF Gujarat

Before this Court passes an interim order, it would like to hear Mr. G.S. Malik, IPS, Inspector-General, who had passed the order dated 12th January, 202

Consequently, he is directed to be personally present in Court on the next date of hearing. List on 05th April, 2021.”

5. In pursuance to the last order, Mr. G.S. Malik, IPS, IG is personally present in Court. He has handed over a confidential report along with certain annexures. The same is taken on record and the Registry is directed to keep the same in a sealed cover.

6. In the confidential report, it has been stated that as per the direction of the Director General, BSF, the IG, BSF re-visited the findings of the opinion of the SCOI & ASCOI and has expunged questions No. 6, 8, 10 and 11 from the main SCOI and questions No. 16, 31, 32, 33, 34, 39, 49, 50, 51, 53, 54, 55, 56, 57, 60, 61, 62, 63, 64, 65, 67, 77, 80, 81, 83, 86, 97, 98, 100 and 104 from the additional SCOI.

7. The IG, BSF has also handed over the letter dated 03rd April, 2021 issued by the SPG Training Branch, which reads as under:-

No. 07/11/68/0/2018/TRG-81
Special Protection Group
(Training Branch)

03 April 2021

Sub: RE-ENTRY IN COURSE AFTER RELEGATION:Reg

As per the relegation policy, Smt. Rampyari Khinchi, SO-II, SPG No. C102922W who was undergoing SIC-01/2021 was relegated from the course w.e.f. 04/03/2021 as she remained absent from the course for more than 03 days, when the course was in its 5th week.

2. Now, as per the re-enter policy for SIC/JIC, officer is permitted to re-join the course i.e. SIC-02/2021 from the 1st day of 4th week i.e. from 19/04/2021.

Sd/-
Asst Inspector General (Trg)
Asst. Inspector General (TRG)
Special Protection Group

AIG (Admn)

Internal distribution

SSO (Trg)

SO(Trg) / RTM

Course SO, SIC/JIC-02/2021

Officer concerned:- through SO(Trg)

8. He also states that the petitioner's transfer order dated 07th August, 2020 shall be modified and it shall state that she has been transferred "in public interest" instead of "on administrative grounds".
9. The aforesaid statements made by IG, BSF are taken on record and the respondents are held bound by the same.
10. In view thereof, present writ petition along with pending application is disposed of as satisfied.

MANMOHAN, J

ASHA MENON, J

APRIL 05, 2021
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