

17.11.2022

WPA 24790 of 2022

Arjun Kumar Barman

-Vs-

Deputy Inspector General, BSF (H.Q.), Kolkata Sector & Ors.

Mr. Sardar Amjad Ali

Mr. Samir Kumar Ghosh

... for the petitioner

Mr. Kumaresh Dalal

Mr. Asit Kr. De

... for the Respondents

In this writ petition, the writ petitioner, who is a Platoon Commander of 158 Battalion with the Border Security Force (BSF) has challenged a show-cause notice dated October 12, 2022. The said show-cause notice has been issued under Rule 22(2) of the BSF Rules, 1969. The charge against the petitioner is quite serious since it has been alleged that in connivance with the local smugglers, he has been facilitating trans-border smuggling of Narcotics, Phensedyl, *ganja*, medicine from India to Bangladesh through BOP Petrapole for pecuniary benefits.

The petitioner was put under suspension on and from March 4, 2022.

Mr. Ali, Learned Counsel, appearing on behalf of the petitioner, mentioned this matter before this Court for expeditious hearing and upon consideration of his prayer, it was posted for hearing today.

He submits on behalf of his client that the show-cause notice was illegal and arbitrary since the Staff Court of Enquiry was not the authorised Court to conduct an enquiry where service personnel of BSF was concerned.

He further submits that the concerned authority being the Deputy Inspector General, BSF (H.Q.) proposed termination of the service of the petitioner without giving him a reasonable opportunity to present his case before coming to the decision with regard to his proposed termination.

Mr. Dalal, Learned Counsel appearing for the respondents, submits a Reply to the show-cause Notice dated October 12, 2022. The said reply was submitted on behalf of the petitioner on November 7, 2022. Such fact was not brought to the notice of the Court by Learned Counsel appearing on behalf of the petitioner.

He submits in Court today that he was not given necessary instructions with regard to the fact that a reply was already submitted on behalf of the writ petitioner to the authority concerned being the Deputy Inspector General, BSF (H.Q.). Such conduct on the part of the petitioner is not appreciated by this Court.

This Court finds that the petitioner has already submitted to the jurisdiction of the Disciplinary

Authority by filing his reply. The reply as handed over by the Learned Counsel for the respondents be retained with the records.

This Court finds that the writ petition is premature.

The Writ Petition being **WPA 24790 of 2022** is **dismissed** without any order as to costs.

All parties to act on a server copy of this order duly obtained from the official website of the Hon'ble High Court, Calcutta.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.

(Lapita Banerji, J.)