

205 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-21112-2021 (O&M)
Date of Decision: 29.08.2022

Sunil Guleria Petitioner

Versus

Union of India and others Respondents

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Anshul Sharma, Advocate, for
Mr. G.S.Madaan, Advocate,
for the petitioner.

Mr. Parvesh Kumar Saini, Senior Panel Counsel,
for respondents No.1 to 4.

RAJBIR SEHRAWAT, J. (ORAL)

This is a petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorari challenging the order dated 23.03.2021 (Annexure P-4), passed in violation of settled principle of law protected under the Constitution of India, BSF Act, 1968 and BSF Rules, 1969, thus being wrongly, illegally, erroneous and violative of rights protected under the Constitution of India; with a further prayer that during the pendency of the present petition, operation of the impugned order dated 23.03.2021 may kindly be stayed.

Learned counsel for the respondents-UOI has submitted that the petitioner has obtained the notice and stay order dated 29.10.2021 by presenting wrong facts before this Court on the first date of hearing. The

petitioner had submitted that after Summary Court of Enquiry had concluded the proceedings, the Inspector General of BSF had no jurisdiction or authority to reopen the entire issue. However, the proceedings were not concluded by the Summary Court of Enquiry. Rather, the proceedings involved in the present petition were before the Staff Court of Enquiry, which was only a fact finding inquiry; which was to be followed by the order to be passed by the authority which had referred the matter to the Staff Court of Enquiry or to the competent authority; if such an officer was not the authority competent to pass the order. In that capacity, only the Inspector General of BSF had passed the order impugned in the present case.

Since, as per the statutory procedure, the final order has not even been passed by the competent authority; following the fact finding enquiry by the Staff Court of Enquiry, therefore, this Court does not find it appropriate to interfere in the matter, at this stage. Accordingly, the present petition is dismissed at this stage.

However, the petitioner would be entitled to avail his remedies, in case, the final order goes against the petitioner.

(RAJBIR SEHRAWAT)
JUDGE

29.08.2022
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No