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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(CRL) 758/2024**
VIKRAM PAL

..... Petitioner

Through: Mr.Chetan Bhardwaj, Ms.Priyal
Bhardwaj & Mr.Avanish
Prabhat Chandra, Advs.

versus

STATE NCT OF DELHI & ANR.

..... Respondents

Through: Ms.Rupali Bandhopadhyaya, ASC
with Mr.Sagar Mehlawat &
Mr.Abhijeet Kumar, Advs. for
State.
SI Satyender Gulia, PS K.M.
Pur.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

% **13.05.2024**

1. This petition has been filed under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 (in short, 'Cr.P.C.') challenging the Punishment Ticket No. 597 dated 01.09.2023 issued by the Superintendent, Central Jail No. 14, Mandoli, Delhi to the petitioner.
2. It is alleged that on 01.09.2023 at 18:45 hours, during the mandatory search conducted by CRPF in *Deodhy*, a quantity of approximately 50 gms of tobacco was recovered from the possession of the petitioner and seized vide seizure memo dated 01.09.2023. Accordingly, he has been awarded punishment for stoppage of 10 days



mulakat and 10 days of canteen facilities, subject to the appraisal by the learned District and Sessions Judge.

3. The learned Additional District Judge (Inspecting Judge) Central-Jail No.14, Mandoli, Delhi approved the punishment so awarded on the petitioner vide its order dated 21.10.2023.

4. The petitioner has challenged the above punishment ticket by way of the present petition.

5. The learned counsel for the petitioner submits that the petitioner could not have been present at the *Deodhy* at the time that has been alleged by the jail authorities. He submits that, for entering *Deodhy*, either the petitioner has to be on duty there or has to be called for a legal meeting. He submits that, in any case, the inmates are not allowed to be in *Deodhy* beyond 5:30 PM.

6. He further submits that in terms of Rule 1273 of Delhi Police Rules, 2018 (hereinafter referred to as the 'Delhi Police Rules'), in all cases except in cases of formal warning, the complete inquiry file, findings and punishment awarded has to be immediately forwarded to the District and Sessions Judge for obtaining judicial appraisal. Where such information, on account of any exigency, is difficult to be forwarded immediately, it has to be forwarded maximum within a period of two days. He submits that, in the present case, admittedly the file was forwarded to the learned Additional Sessions Judge only on 06.09.2023, that is, after much delay.

7. On the other hand, the learned counsel for the respondent submits that in the present case, the petitioner had come to the *Deodhy* to take the dispatch number of his application seeking furlough, after



taking verbal permission from the concerned officer on intercom. He submits that during the mandatory search, tobacco of 50 gms was recovered from his possession and, therefore, the punishment ticket has been rightly issued to him after following the due process. He submits that mere delay in forwarding of the inquiry report to the learned Additional District Judge for appraisal does not vitiate the inquiry or the punishment awarded.

8. I have considered the submissions made by the learned counsel for the parties.

9. In the present case, there are certain peculiar circumstances regarding the case set up against the petitioner. One of them being that the petitioner, as per his submission, could not have been at *Deodhy* at the time of the alleged recovery of the tobacco. In answer to a query raised by this Court, the Superintendent of Prisons has, in his report/reply dated 22.04.2024, stated that the prisoners can enter *Deodhy* only in the following events:-

- “i. He has his labour at Deodhy*
- ii. He has been called for Legal Meeting.*
- iii. He has been called by Jail Official.”*

10. The reply/report further states as under:-

“However, it is pertinent to mention here that the above said convict had applied for 1st spell of furlough before competent authority which was dispatched by this office on 28.08.2023 and the day of incident i.e. on 01.09.2023, he had come to deodhy to take dispatch no. of furlough after taking verbal permission given by Sh. Vipin, HW - 711 on intercom (Statement of Sh. Vipin, HW-711 is enclosed herewith). Therefore, the said convict entered in deodhy as per point no. (iii) submitted by the counsel of the convict.”



11. The above would not fall even in Clause (iii) mentioned hereinabove. The petitioner had not been called by the Jail Officials to visit the *Deodhy* at that time. According to the respondent, the petitioner had sought permission to visit the *Deodhy*, which had been granted. Why such a permission would be granted for late in the evening has not been considered by the learned Inspecting Judge while granting his judicial appraisal to the punishment awarded to the petitioner. There is also a delay in forwarding of the punishment inquiry to the Inspecting Judge, which is in contravention of Rule 1273 of the Delhi Police Rules, which reads as under :-

“1273. The Superintendent shall hold an inquiry touching every prison offence committed or alleged to have been committed by a prisoner in the prison in a quasi-judicial manner recording the statements of all concerned witnesses, giving full opportunity to the offender for his defense Confessional statements of the offender should also be recorded in the presence of two witnesses. Findings and punishment in the manner provided in law should be recorded after applying judicious mind by the Superintendent in his own hand in the prisoner's history ticket. The complete enquiry file, findings and the punishment awarded shall be immediately forwarded to the District and Sessions Judge for obtaining judicial appraisal in all cases except in cases of formal warning. Where such information, on account of exigency is difficult to be forwarded immediately, be given within 2 days of finding. The Superintendent shall satisfy himself that every punishment so ordered, is duly carried into effect in accordance with law.

Provided that the Superintendent, at any time,



if physically incapacitated from making such record, cause the same to be made in his presence and under his directions.”

12. Considering the above facts and circumstances of the present case, the Punishment Ticket No. 597 dated 01.09.2023 issued by the Superintendent, Central Jail No. 14, Mandoli, Delhi and all consequent orders thereto are set aside.

13. The petition is allowed in the above terms.

NAVIN CHAWLA, J

MAY 13, 2024/rv/ss

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