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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 13301/2024

ANAND PAL

.....Petitioner

Through: Mr. D.S. Solanki, Adv. with Ms. Jyoti, Mr. Vipin Kumar Yadav and Mr Krishna Srinivasan, Advs.

versus

DG ITBP AND ORS

.....Respondents

Through: Mr. Jiwesh Tiwari, SPC with Ms Samiksha, Adv. with Mr. Kamaldeep, G.P and Dy. Comdt. Mrinal Upadhaya from ITBP.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MS. JUSTICE SHALINDER KAUR

ORDER

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23.09.2024

CM APPL. 55545/2024

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

W.P.(C) 13301/2024 & CM APPL. 55544/2024 (stay)

3. By way of present petition under Article 226 of the Constitution of India, the petitioner who is serving in the Indo Tibetan Border Police (ITBP) has approached this Court assailing the order dated 03.10.2023 passed by the Summary Force Court imposing on him a penalty of reduction to the rank of Constable along with fifteen days imprisonment in force custody.
4. Learned counsel for the petitioner submits that the petitioner has been compelled to approach this Court as the review petition preferred by



him against the Summary Force Court proceedings has not been decided by the respondents till date. Consequently, the petitioner is unable to file any petition under Rule 168 of the ITBP Rules to assail the findings and sentence imposed by the Summary Force Court as per law.

5. Learned counsel for the respondents, who appears on advance notice, submits that the aforesaid review petition already stands rejected on 13.09.2024 and, therefore, it is open for the petitioner to prefer a petition under Rule 168 of the ITBP Rules. He, therefore, prays that the present petition being premature be dismissed.
6. In the light of the aforesaid stand taken by the respondents, even though learned counsel for the petitioner submits that he has not even received a copy of the order dated 13.09.2024, we are of the view that the petitioner should first avail of the statutory remedy available to him under Rule 168(2) of the ITBP Rules.
7. We, therefore, dispose of the writ petition by directing the respondents to supply a copy of the order dated 13.09.2024 to the learned counsel for the petitioner within two days with liberty to the petitioner to file a petition under Rule 168(2) of the Rules within two weeks. Taking into account that the review petition filed by the petitioner has been decided by the respondents after almost eleven months, we direct that the petition under Rule 168(2) of the ITBP Rules be decided by the respondents within a period of 12 weeks from the date of receipt thereof.



8. Needless to state, in case the petitioner is aggrieved by any order passed by the respondents, it will be open for him to seek legal recourse, as permissible in law.

REKHA PALLI, J

SHALINDER KAUR, J

SEPTEMBER 23, 2024
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