

(1984) 02 P&H CK 0085

In the Punjab And Haryana At Chandigarh

Case No : Criminal Writ Petition No. 547 of 1983

Billa alias Bhola Singh

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 10-02-1984

Acts Referred:

Citation : (1984) 02 P&H CK 0085

Hon'ble Judges : S.S.Dewan, J

Advocate : H.S. Bedi, V.K. Jindal, Advocates for appearing Parties

Judgement

S.S. Dewan, J.

1. Billa alias Bhola Singh convict has filed habeas corpus petition praying that a direction be issued to the respondents to grant him parole/furlough under the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 (for short, the Act).

2. The petitioner is undergoing life imprisonment. He applied for temporary release on parole/furlough under the Act. The Superintendent, Central Jail, Bhatinda, refused to forward his application to the appropriate authority in view of his impugned order dated September 28, 1983, whereby he awarded punishment. This order of punishment is sought to be challenged on the ground that it was passed on the petitioner's back as he was not associated with any enquiry and no opportunity of being heard and to refute the allegations were afforded to him. It is also contended that the impugned order is bad in law because the Superintendent Central Jail did not obtain the concurrence of the Sessions Judge before awarding the punishment. In the return filed by the respondents the allegations made by the petitioner have been repudiated. It is pleaded that the requisite concurrence of the Sessions Judge, Bhatinda, was verbally obtained and an intimation was sent by the Superintendent, Central Jail, Bhatinda, vide letter N. 7392 dated 17.10.1983.

3. After hearing the parties counsel I am of the considered view that the

impugned order passed by the Superintendent, Central Jail, Bhatinda, cannot be sustained on the ground that it was passed without judicial appraisal of the Sessions Judge in violation of the mandatory directions issued by the Supreme Court in *Sunil Batra v. Delhi Administration*, A.I.R. 1980, Supreme Court 1579; *Rakesh Kaushik v. B.L. Vig, Superintendent, Central Jail, New Delhi* and another, 1980. Supreme Court Cases (Cri) 834 and *Kishore Singh Ravinder Dev and others v. State of Rajasthan*, 1981 Supreme Court Cases (Cri) 191. There is no doubt that a letter was written by the Superintendent Central Jail, Bhatinda, to the District and Sessions Judge, Bhatinda, intimating him the punishment awarded to the convict but no material forming basis of the punishment was placed before him. Mere intimation of the punishment to the Sessions Judge cannot tantamount as compliance with the directions of the Supreme Court. Judicial appraisal must be obtained expeditiously without any loss of time. There is also nothing on the record to show that the Sessions Judge approved the punishment or not. The direction of the Supreme Court given in the aforesaid authority is not an empty formality. Judicial appraisal of the Sessions Judge is required to be obtained in writing on the punishment awarded by the jail authorities and not merely an intimation is to be sent to him. Accordingly this petition is allowed and the impugned order dated September 28, 1983, is hereby quashed. It will nevertheless be open to the authorities to reconsider the matter in accordance with law.