

(2023) 05 DEL CK 0226

In the Delhi High Court

Case No : Civil Writ Petition No. 7395 Of 2023, Civil Miscellaneous Application
No. 28770 Of 2023

Nikhil Mandal

APPELLANT

Vs

Union Of India & Ors.

RESPONDENT

Date of Decision : 26-05-2023

Acts Referred:

Citation : (2023) 05 DEL CK 0226

Hon'ble Judges : Suresh Kumar Kait, J; Neena Bansal Krishna, J

Bench : Division Bench

Advocate : Harsh Yadav, Shashank Shri Tripathi, Ripu Daman Bhardwaj,
Kushagra Kumar

Final Decision : Disposed Of

Judgement

W.P.(C) 7395/2023

1. The present Writ Petition has been filed by the petitioner seeking the following reliefs :

“(i) Issue a writ in the nature of mandamus or any other appropriate writ, direction, order or declaration, directing the Respondents herein to either confirm the finding and sentence dated 19.10.2022 (Annexure No.4) or reject it, however in any case, take a call on the same and thereby affording the Petitioner right to take further appropriate legal remedy in law.

(ii) Issue a writ in the nature of mandamus or any other appropriate writ, direction, order or declaration, suspending the finding and sentence dated 19.10.2022 (Annexure No. 4) and release the Petitioner on bail until the concerned authority takes a call on validity of the same; and/ or,

(iii) Issue a writ in the nature of mandamus or any other appropriate writ, direction, order or declaration, directing that the Petitioner be released on bail until the finding and sentence dated 19.10.2022 is being confirmed by the

concerned authority and due time is provided to the Petitioner to appeal the same; and/ or,

(iv) Pass such other and further order(s) or direction(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

2. Learned counsel appearing on behalf of the petitioner submits that vide the Court Martial proceedings dated 19.10.2022 the petitioner has been held guilty and sentenced to undergo one year six months Rigorous Imprisonment. However, till date the said punishment has not been confirmed by the Confirming Authority.

3. Learned counsel appearing on behalf of the respondents along with Major Partho Katyayan submits that the petitioner made pre-confirmation petition dated 05.04.2023 and the same is pending disposal and has assured this Court that the said pre-confirmation petition will be decided within four weeks.

4. Since the sentence is one year and six months Rigorous Imprisonment and the petitioner has already undergone ten months sentence, we hereby direct the respondents to decide the pre-confirmation petition dated 05.04.2023 of the petitioner within two weeks from today.

5. After deciding the pre-confirmation petition by the Confirming Authority if the sentence of the petitioner is confirmed, then liberty is granted to the petitioner to move an application for suspension of sentence before the concerned Armed Forces Tribunal (AFT).

6. It is made clear that if AFT is not in motion, then the liberty is granted to move the application before the concerned High Court.

7. The petition and the pending applications are disposed of accordingly.