

(2023) 02 RAJ CK 0019

In the Rajasthan High Court

Case No : D.B. Criminal Writ Petition No. 28 Of 2023

Shambhu Lal

APPELLANT

Vs

State Of Rajasthan And Others

RESPONDENT

Date of Decision : 06-02-2023

Acts Referred:

Rajasthan Prisoners Open Air Camp Rules, 1972 — Rule 3

Citation : (2023) 02 RAJ CK 0019

Hon'ble Judges : Vijay Bishnoi, J;Yogendra Kumar Purohit, J

Bench : Division Bench

Advocate : Kalu Ram Bhati, Sunil Dutt Chavariya, Anil Joshi, Pallav Sharma

Final Decision : Disposed Of

Judgement

This writ petition is filed by the petitioner with a prayer to issue direction to the respondents for sending him to Open Air Camp, Udaipur. It is averred in the petition that the petitioner is eligible for sending to Open Air Camp as per the Rajasthan Prisoners Open Air Camp Rules, 1972 (for short 'the Rules of 1972') and he is not suffering from any ineligibility as provided in Rule 3 of the Rules of 1972.

Reply to the writ petition is filed on behalf of the State, wherein, it is mentioned that as on 13.01.2023, the petitioner has served total sentence of 9 years 4 months and 17 days. It is also mentioned in the reply that case of the petitioner for sending him to Open Air Camp was sent to the Director General, (Prisons), Rajasthan, Jaipur and therefore was placed before the Open Air Camp Committee (for short 'The Committee'), however the Open Air Camp committee, in its meeting dated 08.12.2022, has found that besides the present case, another Case No.79/2014 is pending against the petitioner in the ADJ Court, Udaipur in which, he was on bail and, therefore, he was not found eligible for sending to Open Air Camp.

Learned AAG has submitted that the Committee in its meeting has specifically

mentioned that since one criminal case is pending against the petitioner in which he is on bail he is not entitled for sending to the Open Air Camp.

Learned counsel for the petitioner has submitted that earlier the Director, (Prisons), Rajasthan, Jaipur has sent the prisoners to Open Air Camp despite the fact that another criminal case is pending against them in which they are on bail. Learned counsel has placed reliance on the minutes of the meetings dated 11.04.2019, 12.04.2019 and 15.04.2019 prepared by the Director General, Prisons Rajasthan, Jaipur and pointed that at serial No.258, there is mention of prisoner Kundan and in the remarks, it is clearly mentioned that in another case he is on bail, but his case was recommended for sending him to Open Air Camp.

Learned AAG is not in a position to dispute the said fact. Taking into consideration the above facts that circumstances of the case, we are of the opinion that the Director General, (Prisons) has erred in rejecting application filed by the petitioner for sending him to Open Air Camp vide order dated 08.12.2022.

Hence we deem it proper to direct the Director General (Prisons), Rajasthan, Jaipur to reconsider the application filed by the petitioner for sending him to Open Air Camp, Udaipur at the earliest, preferably within a period of four weeks from the production of certified copy of this order.

The Criminal Writ Petition is disposed of accordingly.