

**(2002) 12 J&K CK 0004**

**In the Jammu And Kashmir High Court**

**Case No :** Service Writ Petition (SWP) No. 1130 of 2002

S.S.Rathore

APPELLANT

Vs

Union of India & Ors.

RESPONDENT

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**Date of Decision :** 28-12-2002

**Acts Referred:**

Constitution of India, 1950 — Article 226, 227

**Citation :** (2003) 1 SCT 771

**Hon'ble Judges :** Syed Bashir-ud-din, J

**Bench :** Single Bench

**Advocate :** A.M. Dar, Advocates appearing for the Parties

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## **Judgement**

Syed BashirudDin, J.—B.S.F. Head Quarter at Gurdaspur Punjab received a complaint from one Balwinder Pal of M/s Jakria Furniture

Gurdaspur alleging misconduct by the petitioner, a commandant on 115 Bn. BSF, in as much as the petitioner is stated to have purchased furniture

worth Rs. 70,000/ for his personal use/for marriage of his daughter as official purchase in the name of BSF and failing to make part/full payment of

the amount. The D.I.G. BSF Gurdaspur detailed one S.D. Bimal Dy. Commandant (adm.) to the Headquarter to conduct staff court of Enquiry

(SCOI) with a view to find out the facts and truth of the complaint. The one man SCOI issued the questionnaire and sought reply from the

petitioner to which the petitioner has replied.

2. Petitioner is challenging this order and initiation of proceedings by Staff Court of Enquiry Officer (SCOI).

3. Admittedly the BSF authorities are within parameters of law to find and collect basic facts and gather information with a view to determine the

truth or otherwise of the complaint interalia for the purpose if further recourse to appropriate proceedings under law is merited. The impugned

action has been nothing but the proceedings wherein preliminary fact finding exercise is to be undertaken which does not impinge on or contravene

any service or other rights of the petitioner.

4. Jurisdiction of this court, cannot be invoked in the factsituation of the case, to seek the relief, as prayed for. Petitioner as admitted by his counsel

is presently posted in West Bengal. The cause of action has arisen at Gurdaspur. The impugned action has been taken at Delhi. Petitioner has

wrongly and wilfully shown his residence at Karannagar Srinagar, whereas he belongs and is resident of Rajasthan State. He has also equally made

a wrong statement that he is commandant of 2115 Bn. BSF at KaranNagar Srinagar, whereas petitioner is as admitted by counsel shifted from this

Bn. and is on duty to the BSF somewhere in West Bengal. This High Court is not exercising jurisdiction in relation to the territories within which

cause of action has arisen. The parties obviously are also located/domiciled beyond the jurisdiction of this court.

5. In CWP No. 129/2000 M/s Torl Impex v. Union of India and others decided on 29.7.2002, where the firm sought incentives under Duty

Exemption Pass Book (DEPB) Scheme of Central Government in respect of goods (SIM Card LOC) exported to Dubai. I have in the context of

jurisdiction, observed :

The articles in question are shipped at Mumbai. The shipping bill is provisional and assessed at Mumbai. The final assessment with regard to the

value of the goods exported for purposes of credit/incentive under B.E.P.B. Scheme is again a matter being dealt with by the competent authority

at Mumbai. All the respondents except respondent No. 1 who is posted at Delhi are based at Mumbai. The matter is being investigated/inquired

into for the purpose of credit/incentive/Scheme again at Mumbai. The annexures enclosed with the writ petition are issued by the authorities at

Mumbai. In such circumstances, the jurisdiction of this court cannot be invoked in the matter.

6. These observations on all fours are applicable to this case as well.

7. In result, the writ petition is dismissed.