

(2021) 08 DEL CK 0110

In the Delhi High Court

Case No : Civil Writ Petition No. 8489 Of 2021, Civil Miscellaneous No. 26255-26257 Of 2021

Upendra Prakash Balodi

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision : 16-08-2021

Acts Referred:

Sashastra Seema Bal Act, 2007 — Section 131(2)

Citation : (2021) 08 DEL CK 0110

Hon'ble Judges : Manmohan, J;Navin Chawla, J

Bench : Division Bench

Advocate : Sumit Teterwal, Rajkumar Maurya, Vijayant Sharma, Chetan Sharma, Anil Soni, Amit Gupta, Sudhanshu Kumar

Final Decision : Disposed Of

Judgement

Manmohan, J

The petition has been heard by way of video conferencing.

CMs 26255-56/2021(exemption)

Allowed, subject to all just exceptions.

Accordingly, the applications are disposed of.

WP(C) 8489/2021 & CM 26257/2021

1. Present writ petition has been filed challenging the order dated 29th June, 2021 passed by the General Force Court whereby the petitioner has been found guilty of twelve charges and order dated 30th June, 2021 whereby the General Force Court has imposed the punishment of dismissal from service and in addition sentenced the petitioner to undergo rigorous imprisonment of eighteen months.

2. At the outset, learned counsel for the respondents raises a preliminary objection with regard to the maintainability of the present writ petition on the ground that it is premature as the petitioner has not exhausted its statutory remedy by filing a petition to the Central Government/ Director-

General/prescribed Officer superior in Command to the one who had confirmed the finding or sentence of the Force Court. In support of his

submission, he relies upon Section 131(2) of The Sashastra Seema Bal Act, 2007 (hereinafter referred to as the "Act"), which reads as under:

"131. Petition against order, finding or sentence of Force Court.-

xxx xxx xxx

(2) Any person subject to this Act who considers himself aggrieved by a finding or sentence of any Force Court which has confirmed, may

present a petition to the Central Government, the Director-General or any prescribed officer superior in command to the one who confirmed

such finding or sentence, and the Central Government, the Director-General, or the prescribed officer, as the case may be, may pass such

order thereon as it or he thinks fit."

3. Learned counsel for the petitioner admits that till date the petitioner had not exhausted the aforesaid statutory remedy.

4. Accordingly, the present writ petition and pending applications are disposed of with a direction to the petitioner to file a petition under Section 131(2)

of the Act within a week. In the event, such a petition is filed within the aforesaid period, the same shall be disposed of by way of a reasoned order in

accordance with law within three weeks. Till the disposal of the petitioner's petition under Section 131(2) of the Act, the arrangement made by the

learned predecessor Division Bench vide order dated 10th August, 2021 in the earlier writ petition filed by the petitioner being WP(C) No.1977/2020

shall continue.

5. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.