

ITEM NO.3

COURT NO.4

SECTION IVB

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No.5298/2015

(Arising out of impugned final judgment and order dated 14/10/2014 in LPA No. 585/2014 passed by the High Court of Punjab & Haryana at Chandigarh)

UNION OF INDIA AND ORS.

Petitioner(s)

VERSUS

N. SARAVANAN

Respondent(s)

Date : 05/05/2016 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DIPAK MISRA
HON'BLE MR. JUSTICE SHIVA KIRTI SINGH

For Petitioner(s) Mr. P.S. Patwalia, ASG
Mr. Rana Mukherjee, Sr. Adv.
Mr. Gaurav Sharma, Adv.
Mr. K.L. Janjani, Adv.
Ms. Gunwant Dara, Adv.
Mr. Vikas Bansal, Adv.
Mrs. Anil Katiyar, Adv.
Ms. Sushma Suri, AOR

For Respondent(s)
Mr. Gautam Narayan, AOR

UPON hearing the counsel the Court made the following
O R D E R

Heard Mr. P.S. Patwalia, learned Additional Solicitor General for the Union of India and Mr. Gautam Narayan, learned counsel for the respondent.

In course of hearing, Mr. Patwalia, learned Additional Solicitor General, submitted that regard being had to the nature of punishment imposed on the respondent, the

Director-General of the Border Security Force, who is the confirming authority, has no objection to hear the Next Friend of the respondent. Additionally, it is submitted by him that the respondent can also file an independent application seeking pardon or remission of the sentence, as provided under Section 128 of the Border Security Force Act, 1968 (for short, 'the Act'). Section 128 of the Act reads as under:-

"128. *Pardon and remission.*- When any person subject to this Act has been convicted by a Security Force Court of any offence, the Central Government or the Director-General or, in the case of a sentence, which he could have confirmed or which did not require confirmation, an officer not below the rank of Deputy Inspector-General within whose command such person at the time of conviction was serving, or the prescribed officer may,-

- (a) either with or without conditions which the person sentenced accepts, pardon the person or remit the whole or any part of the punishment awarded; or
- (b) mitigate the punishment awarded; or
- (c) commute such punishment for any less punishment or punishments mentioned in this Act;
- (d) either with or without conditions which the person sentenced accepts, release the person on parole."

Having heard learned counsel for the parties, we grant liberty to the respondent to file an application under Section 128 of the Act within three weeks hence. The Director-General shall consider the said application along with the petition submitted under Section 117(2) of the Act simultaneously. The respondent shall be entitled to nominate the Next Friend, who shall put forth his case before the confirming authority, who is empowered to exercise the power

under Sections 117 and 128 of the Act. We may hasten to clarify that the Next Friend shall not be a lawyer. The said exercise be completed within a period of eight weeks hence.

Let the matter be listed for further hearing in the third week of July, 2016.

(Chetan Kumar)
Court Master

(H.S. Parasher)
Court Master