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ITEM NO.2

COURT NO.6

SECTION X

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

WRIT PETITION (CRL.) NO(s). 310 OF 2005

BHIM SINGH

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(With appln(s) for impleadment and directions and further  
direction and office report)

WITH

W.P(CRL.) NO. 233 of 2011  
(With office report)

W.P(CRL.) NO. 236 of 2011  
(With office report)

W.P(CRL.) NO. 82 of 2010

Date: 16/10/2012 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.M. LODHA  
HON'BLE MR. JUSTICE ANIL R. DAVE

Counsel for the parties

Prof. Bhim Singh, petitioner-in-person  
Mr. B.S. Billoriwa, Adv.  
Mr. Vijay Pratap Singh, Adv.  
Mr. Gaurav Bansal, Adv.  
Mr. P.V. Yogeswaran, Adv.

Mr. Satish Vig, Adv.

Mr. Dinesh Kumar Garg, Adv.

Union of India

Mr. P.P. Malhotra, A.S.G.  
Mr. Harish Chandra, Sr. Adv.  
Mr. Chetan Chawla, Adv.  
Mr. B.K. Prasad, Adv.  
Mr. D.S. Mahra, Adv.  
Mr. Vikas Bansal, Adv.

Ms. Kamini Jaiswal, Adv. (not present)

Mr. Arun K. Sinha ,Adv.

Mr. Anil K. Jha ,Adv.

State of NCT of Delhi

Mr. Vikas Bansal, Adv.  
Mrs. Anil Katiyar, Adv.

State of U.P.

Mr. Kunal Verma, Adv.  
Mr. Ardhendumauli Kumar Prasad, Adv.  
Mr. Praveen Swarup ,Adv.

Mr. Javed Mahmud Rao, Adv.



We record and accept the assurance given by Ms. Dilshad, Additional Secretary, Home Department, Government of Jammu and Kashmir, to this Court that the Government of Jammu and Kashmir shall henceforth expedite the process of sending no objection for repatriation once the Government of Jammu and Kashmir decides not to challenge the acquittal of the prisoners in the aforementioned list on completion of their sentence.

Insofar as Ikram Asif @ Kamran s/o Mohd. Asif (serial No. 199) of the above list is concerned, now since the Government of Jammu and Kashmir has decided not to file appeal against his acquittal, we direct the Government of Jammu and Kashmir to send its no objection for repatriation to the Ministry of Home Affairs, Government of India, within 10 days from today. We further direct the Ministry of Home Affairs, Government of India, to repatriate him within three weeks from the receipt of no objection from the Government of Jammu and Kashmir.

In respect of Zulfikar Ali Rana @ Iqbal s/o Mohd. Yaseen (serial No. 129), it is stated in the above affidavit filed by the Government of India that he has been repatriated on October 9, 2012.

As regards Saqib Aziz Malik @ Abu Said s/o Abdul Aziz Malik (serial No. 231), Allah Ditta s/o Late Jahan Mohd. (serial No. 246), Baber Naseem Wardak s/o Hamid-ul-Rehman (serial No. 211), Mohd. Adnan Malik Code Abu Dakda s/o Mohd. Ashraf Malik (serial No. 219), Mohd. Shafqat Shah Code Abu Mavia s/o Mohd. Liyaqat Shah (serial No. 221), Ajaz Ahmad Bhat s/o Reyaz Ahmad (serial No. 229) and Mohd. Suhail @ Amir s/o Mohd. Anwar (serial No. 20) and Waseem Ahmed @ Abu Mohammad s/o Mohd. Hussain (serial No. 21), it is stated that the Government of Jammu and Kashmir has decided to challenge their acquittal before the High Court or this Court, as the case may be. Obviously, in view thereof, presently no direction can be issued for their repatriation.

Mr. Sunil Fernandes, learned Standing Counsel for the State of Jammu and Kashmir, has informed us that the investigation into the crimes against Jameel Ahmad Awan (serial No. 316) and Abdul Majid Ariya (serial No. 317) has now been completed and charge-sheet has been filed in the Court of Chief Judicial Magistrate, Jammu. With regard to these two persons as well no further order needs to be passed by us.

We are pained and concerned about Abdul Sharif s/o Gulam (serial No. 151 of list Annexure 'D' of the affidavit filed on February 24, 2012). As per that affidavit, Abdul Sharif has completed his sentence way back on July 17, 1997. According to that affidavit, Pakistan High Commission has informed that he was not Pakistani national rather he was an Iranian national. On supply of this information by the Pakistan High Commission, the Ministry of External Affairs, Government of India, was requested to take up the matter with the Embassy of Iran and it is stated that Ministry of External Affairs has made a reference of this person to the Embassy of Iran. Although about 10 months have passed since then but no further information has been supplied to this Court in any of the subsequent affidavits filed on behalf of the Government of India whether the Embassy of Iran has confirmed the nationality of Abdul Sharif s/o Gulam or not.

We direct the Ministry of Home Affairs and the Ministry of External Affairs, Government of India, to file appropriate affidavits before this Court through responsible officers giving the present status regarding confirmation of nationality of Abdul Sharif s/o Gulam.

From the additional affidavit filed by Mr. Payingattery Venkiteswaran Sivaraman, Director (Foreigners) in the Ministry of Home Affairs, Government of India, New Delhi in the month of April 2012, it transpires that he is detained in a separate barrack in Amritsar which has been declared by the Government of Punjab as a detention centre. In our view, his continuous detention even in a

detention centre when he has served out his sentence way back on July 17, 1997 is not only not proper but highly deplorable. All necessary steps ought to have been taken by the concerned officials/authorities of the Government of India in getting his nationality established so that he could be repatriated to the nation he belongs without any delay. We now expect the Ministry of Home Affairs and the Ministry of External Affairs, Government of India, to take all necessary steps in having the nationality of Abdul Sharif s/o Gulam confirmed without any further loss of time.

List this Writ Petition on November 29, 2012.

W.P(CRL.) NO. 233 of 2011; W.P(CRL.) NO. 236 of 2011 and W.P(CRL.) NO. 82 of 2010

List these Writ Petitions along with Writ Petition (Criminal) No. 310 OF 2005 on November 29, 2012.

|(Rajesh Dham)  
|Court Master

| |(Renu Diwan)  
| |Court Master

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