

ITEM NO.3

COURT NO.12

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 &amp; ORS.

Respondent(s)

(With appln(s) for permission to intervene in the writ petition, c/delay in filing detailed affidavit in pursuance to the direction of this Court dated 20.4.2007, modification of Court's order, modification/clarification, c/delay in filing counter affidavit and office report)

WITH

W.P.(CRL.) No.94 of 2008  
 (With appln. For recalling the court's order and office report)

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

Date: 04/05/2011 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE AFTAB ALAM  
 HON'BLE MR. JUSTICE R.M. LODHA

For Petitioner(s) Prof. Bhim Singh (In-person)  
 Mr. Vijay Pratap Singh, Adv.  
 Mr. K.K. Pandey, Adv.  
 Mr. P.V. Yogeswaran, Adv.  
 Mr. Gaurav Kumar Bansal, Adv.  
 Mr. Colin Gonsalves, Sr. Adv.  
 Ms. Ritu Kumar, Adv.  
 Ms. Jyoti Mendiratta, Adv.

For Respondent(s) Mr. Gopal Subramaniam, SG  
 UOI Mr. Parag P. Tripathi, ASG  
 Mr. Brijender Chahar, Sr. Adv.  
 Ms. Binu Tamta, Adv.  
 Mr. Anand Verma, Adv.  
 Mr. S. Wasim A. Qadri, Adv.  
 For Mr. S.N. Terdal, Adv. (NP)

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J&K Dr. M.I. Qadiri, Adv. General  
 Mr. Sunil Fernandes, Adv.  
 Ms. Astha Sharma, Adv.

UP Mrs. Shobha Dixit, Sr. Adv.  
 Mr. Pradeep Mishra, Adv.  
 Mr. Sandeep Singh, Adv.  
 Mr. Suraj Singh, Adv.

Mrs. Jayshree Anand, AAG, Punjab  
 Ms. Ekta Singh, Adv.  
 For Mr. Kuldeep Singh, Adv.

Mr. Brahmajeet Mishra, Adv.  
 For Mr. Ratan Kumar Chaudhari, Adv.

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

CrI. M.P. No.10428/2010

In the order passed on the previous date, this Court had expressed the wish that the Advocate General and the Home Secretary of the State of Jammu & Kashmir should remain personally present on the next date, i.e., today.

The Advocate General is present, but the Home Secretary has not been able to come. The Advocate General explains that the Home Secretary also happens to be the Chief Electoral Officer of the State. He further states that polling is to take place today in seven of the panchayat blocks in the State. The Home Secretary, therefore, found it very difficult to leave the State. He has, instead, sent two Special Secretaries of the Department along with all relevant records.

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We accept the explanation given by the Advocate General for the absence of the Home Secretary today.

Put up on May 5, 2011 as Item No.2.

W.P. (CrI.) No.310/2005  
W.P. (CrI.) No.82/2010  
W.P. (CrI.) No.94/2008

As stated in the order dated April 05, 2011, the Solicitor General files detailed statements in regard to the prisoners of foreign nationalities and their present status. The details given in the different statements are summed up on the first page of the compilation.

The total number of the Pakistani prisoners in all the lists submitted before the Court in this proceeding adds upto 340. There are 78 duplication of names and after deducting the duplications, the actual number of foreign nationals in Indian jails comes down to 262, out of which 232 prisoners have already been repatriated. Four detainees escaped from detention. This leaves the number of foreign

prisoners remaining in Indian jails to 26. Out of these 26, there are 19 under-trials and 4 are undergoing their respective sentences which are yet to be completed. The remaining 3 can be repatriated and the Government is already taking steps for their repatriation.

Mr. Solicitor General further explains that the lists submitted before the Court are not exhaustive and do not contain the names of all the foreign nationals in Indian jails. He stated that, as a matter of fact, the number is not constant, as from time to time more arrests are made and, at the same time, the process of repatriation also goes on. Thus, the number of foreign nationals in Indian prisons keeps on changing. He stated that when the Court reopens after the summer vacation, he will file further affidavit giving further details in this regard.

Mr. Solicitor General also informed the Court that on his advice, the Home Secretary has devised a scheme for repatriation of Pakistani prisoners in the Indian jails and a Nodal Officer has also been put in place for the implementation of the scheme so that in future the scheme may work on its own and the prisoners, who are no longer needed in Indian jails, may be repatriated even without any intervention by the Court.

On the next date, he will also file an affidavit giving details as to how the scheme is to be worked out effectively and expeditiously.

Put up on August 04, 2011.

(N.S.K. Kamesh)  
Court Master

(S.S.R. Krishna)  
Court Master