

ITEM NO.7

COURT NO.3

SECTION XVII-A

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

CIVIL APPEAL NO. 10856/2016

BHUPINDER SINGH

APPELLANT

VERSUS

UNITECH LTD. & ORS.

RESPONDENTS

[ ONLY IA NO. 234374/2023 IS LISTED UNDER THIS ITEM ]

(IA No. 234374/2023 - INTERVENTION AND DIRECTIONS)

Date : 23-01-2025 This matter was called on for hearing today.

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HON'BLE MR. JUSTICE NONGMEIKAPAM KOTISWAR SINGH

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

IA No. 234374/2023:

1. The instant application seeks revocation of suspension of the applicant ordered *vide* order dated 13.10.2021, passed by the Director General (Prisons), Delhi, which has been extended from time to time, resulting into continuous suspension of the applicant, who is currently serving in the rank of Assistant Superintendent

(Jail) in the Delhi Prison Department.

2. The applicant (Chetram Meena) was posted as Assistant Superintendent of Jail in Central Jail No.7 of the Tihar Central Jail, Delhi. At that point in time, the ex-promoters/Directors of the Unitech Limited, viz., Ajay Chandra and Sanjay Chandra, were lodged in that Central Jail as under-trial prisoners, w.e.f. 07.08.2020 and 17.08.2020, respectively. The applicant was, after some days, transferred from Central Jail No.7 of the Tihar Jail, Delhi to Jail No.11 of Mandoli Jail, Delhi, on 31.08.2020.

3. It may be mentioned that the above named ex-promoters/Directors of Unitech Limited and other functionaries of the Company were arrested on account of alleged large scale burglary/ misappropriation/ misuse/ siphoning etc. of the hard earned money of home buyers, who had invested in various projects launched from time to time by the Developer-cum-builder Company. There are multiple issues in relation to the Unitech, including protection of interest of thousands of home buyers, which are pending consideration before this Court in the main case.

4. Following the arrest of the said ex-promoters/Directors of the Unitech, it was brought to

the notice of this Court that they were being extended some extraordinary facilities inside the Tihar Central Jail, Delhi, to which, they were not entitled to, as per the prescribed norms. Such an action prompted this Court to pass an order on 26.08.2021 those additional facilities which were beyond the normal course, in terms of the Jail Manual. This Court further directed the Commissioner of Police, Delhi, to make an immediate enquiry into the contents of a communication dated 16.08.2021, which was addressed to him by the Directorate of Enforcement "so that all the officers and staff of Tihar Central Jail, Delhi, who may be complicit in the violation of law, are held accountable."

5. The Commissioner of Police submitted an enquiry report dated 28.09.2021 and in terms of its contents in paragraph 37, this Court accorded permission to conduct a full-fledged preliminary investigation against the persons mentioned therein, as also against any unknown person. It was also stated before this Court that a criminal case under Sections 7, 8 and 12 of the Prevention of Corruption Act, 1988, read with Sections 201/120-B of the Indian Penal Code, 1860, shall also be registered in the Crime Branch of Delhi Police.

6. Taking note of these disturbing events, this Court *vide* order dated 06.10.2021 issued the following interim directions:

"We direct that, in the meantime, the officials of Tihar Jail who have been *prima facie* found to be complicit in the course of the Enquiry shall be placed under suspension pending further proceedings."

7. It was in deference to the above reproduced directions that 32 officers/officials of the Tihar Central Jail, Delhi, including the applicant (Chetram Meena) were placed under suspension, as noticed at the outset of this order.

8. As informed by learned Additional Solicitor General of India, the applicant as well as other officers/officials, who were placed under suspension, continue to be under suspension, though 4 of them have meanwhile retired from service and services of 2 of them, who were engaged contractually, have been dispensed with.

9. Learned Additional Solicitor General further informs that most of the officers/officials under suspension, have now been charge sheeted in the month of October, 2024, and thus, a regular enquiry is proposed to be conducted against them in accordance with the Central

Civil Services (Classification, Control and Appeal) Rules, 1965. As regards the criminal case which was registered under the Prevention of Corruption Act, 1988/Indian Penal Code, 1860, it seems that no charge sheet has been filed so far. However, we are not concerned about the status of proceedings in that case, at this stage.

10. As noticed in the beginning of this order, the prayer of the applicant is to recall the directions contained in paragraph 2 of our order dated 06.10.2021 and allow his reinstatement in service.

11. In this regard, we have heard Mr. P. Chidambaram, learned senior counsel for the applicant as well as Ms. Aishwarya Bhati, learned Additional Solicitor General of India.

12. There can hardly be any dispute that on expiry of six months period of suspension, ordinarily a Government official would become entitled to subsistence allowance at the rate of 75% of the pay, save and except when such subsistence allowance has to be denied for some valid reasons. We, thus, proceed on a premise that most of the suspended officers/officials are now receiving 75% pay without having to perform any work. Additionally,

considering charge sheets have been issued very recently in October, 2024, we can safely infer that the conclusion of the departmental proceedings will take some reasonable time. Similarly, the criminal proceedings, pending against the suspended officials, are also not likely to reach to a logical conclusion within a short time.

13. That being so, it seems that the directions contained in paragraph 2 of the order dated 06.10.2021, if allowed to operate indefinitely, will be prejudicial to the State Exchequer and will hardly serve any purpose, until and unless the Competent Authority is of the considered opinion that the reinstatement of an official is likely to cause impediment in conducting a fair and impartial enquiry.

14. Consequently, we recall the directions contained in paragraph 2 of the order dated 06.10.2021 and leave it entirely to the discretion of the Competent Authority to examine all the cases of officers/officials, who are under suspension, pursuant to our above stated direction, and take an appropriate decision as to whether they should be reinstated or not. It goes without saying that if the Competent Authority finds that the reinstatement of any official will not be an impediment or obstruction in

continuation of the Departmental proceedings, such an official can be reinstated without prejudice to the outcome of the Departmental action.

15. Let the Competent Authority take an appropriate decision within a period of four weeks.

16. At the cost of repetition, it is clarified that we have not expressed any opinion on the merits of the alleged misconduct, if any, committed by any officer/official and/or on the merits of the criminal case registered against them. The Departmental proceedings or the said criminal cases may proceed in accordance with law as per their merits.

17. IA No. 234374/2023 stands allowed and disposed of in the above terms.

(POOJA SHARMA)  
COURT MASTER (SH)

(ANU BHALLA)  
COURT MASTER (NSH)